



Appeal Decision

Site visit made on 13 October 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/T3725/W/20/3250372

Arden Hill, Lapworth Street, Lapworth B94 5QP

- 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 Dhadwal against the decision of Warwick District Council.
 - The application Ref W/19/2037, dated 29 November 2019, was refused by notice dated 27 January 2020.
 - The development proposed is described as: 'Replace office building B1 (a) with dwelling C3'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt in terms of the National Planning Policy Framework ('the Framework') and development plan policy;
 - ii) The effect of the proposal on the openness of the Green Belt;
 - iii) Whether the location for the proposed development would be suitable for housing with regard to development plan policy;
 - iv) If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development in the Green Belt

3. The appeal site is located off a private drive, west of Lapworth Street. The site is occupied by part of a former office building which was fire damaged and partly demolished in order to be made safe. There is an extant planning permission (W/19/1511) for a replacement office building at the appeal site.
4. The appeal scheme seeks to replace the remaining office building, for a dwellinghouse of a similar scale and external appearance as the approved replacement office building.

5. The appeal site lies within the West Midlands Green Belt, Policy DS18 of the Warwick District Local Plan, adopted September 2017 (LP) requires the application of national planning policy for proposals in the Green Belt.
6. Paragraph 145 of the Framework says that the construction of new buildings is inappropriate in the Green Belt. Exceptions to this include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. However, in this case the replacement building would not be of the same use.
7. A further exception under Paragraph 145 of the Framework, supports limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. The impact 'test' is based on a comparison between the development as it exists and what is proposed. It does not include a 'fallback' position of an unimplemented planning permission for a replacement building. I shall though return to this matter under Other Considerations below.
8. Consequently, as is evident on site and from the submitted plans the existing building is substantially reduced in size due to the fire damage, the proposed building would be materially larger in terms of bulk and mass than that which presently exists on the site and would therefore have a greater impact on openness.
9. Accordingly, and since none of the other exceptions listed in the Framework apply in this case, the appeal scheme would be inappropriate development in the Green Belt. Inappropriate development in the Green Belt should not be approved except in very special circumstances.

Effect on the openness of the Green Belt

10. As set out under Paragraph 133 of the Framework the essential characteristics of Green Belts are their openness and permanence. This is irrespective of the site being part of a residential curtilage or being contained. Based on the aforementioned reasons, the proposed dwellinghouse would reduce the openness of the Green Belt. This is a further aspect of Green Belt harm.

Location of development

11. The appeal site is outside of a recognised development boundary and for the purposes of the development plan it is located in the open countryside. Policy H1 seeks to direct new housing across the district in support of the Council's development strategy. The explanatory text to this Policy broadly says that new housing will be located where it is best served by a range of services, facilities and transport facilities such as urban areas and villages.
12. In rural areas, the overarching aims of the above Policy are to promote rural growth along with reducing the need to travel. To this end, Part d) of Policy H1 supports housing in the open countryside, where amongst other things the site is located adjacent to the boundary of an urban area or growth village, meets an unmet housing need and is within reasonable safe walking distance of services (such as school and shop) or is within reasonable safe walking distance of a public transport interchange providing access by public transport to services. In this case and despite the appeal property not being isolated, it has not been clearly shown that the proposal meets all the requirements of

Part d). Also, the proposal does not fall within any of the other categories specified for new housing in the open countryside, under Part e) of this Policy.

13. For the above reasons, the location of the proposed development would not be suitable for housing and conflicts with Policy H1 of the LP.

Other considerations

14. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. It is stated that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
15. The appellant has put forward the fallback position of the extant planning permission for a replacement office building at the appeal site. However, the appellant's submissions and supporting marketing advice which confirm that the building is likely to prove difficult to sell or let with restricted B1(a) office use, cause me to seriously doubt the likelihood of the fallback being implemented. In particular, as there is no certainty that after the office building has been built, its conversion to a dwellinghouse, as envisaged by the appellant would be supported by the Council. Although there is a reference to the conversion of a nearby building, I have insufficient information in relation to this to draw any meaningful comparisons. Against this background, I attach limited weight to this fallback.
16. Another fallback advanced by the appellant is Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This allows for the demolition of certain buildings and construction of new dwellinghouses in their place. Nevertheless, based on the level of information provided, I am unable to ascertain whether the appeal property meets all the limitations and conditions of Class ZA. I therefore attach minimal weight to this particular factor.
17. The existing building and its approved replacement are restricted for B1(a) office use. By definition this is a use which could be carried out in a residential area without detriment to the amenity of that area. As such, I am not persuaded that a residential use would be less intensive in terms of activity and noise on the amenity of nearby residents. Therefore, this assertion also attracts minimal weight.
18. As the site is largely enclosed by boundary treatments and not visible from any public vantage points, any improvements in its appearance as a consequence of the proposal accrue limited weight.
19. Despite not conflicting with the purposes of the Green Belt, the proposal fails to comply with any of the exceptions set out in the Framework for new buildings in the Green Belt. As such, this lack of conflict carries limited weight in favour of the proposal.
20. The lack of objections on grounds of amenity or to the site's access, are neutral factors, which do not weigh in favour or against the proposal in the overall balance.

The Green Belt balance

21. The proposal would harm the Green Belt by way of inappropriateness and loss of openness. The Framework requires substantial weight to be given to any harm to the Green Belt. There would also be harm arising from the conflict with the aims of the development plan to locate development in rural areas to promote rural growth along with reducing the need to travel.
22. Having taken account of all considerations raised in support of the proposal, 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. As such, the proposal conflicts with Policy DS18 of the LP, along with the Green Belt provisions of the Framework. The proposal would also be in conflict with Policy H1 of the LP as referred to in this Decision.

Conclusion

23. For the above reasons, I conclude that the appeal should fail.

M Aqbal

INSPECTOR