



Appeal Decision

Site Visit made on 13 January 2021

By M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2021

Appeal Ref: APP/M1005/W/20/3260948

Chevin Quarry Lodge, Firestone, Hazelwood, Belper DE56 4AE

- 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 R Halhead against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/0515, dated 5 June 2020, was refused by notice dated 11 September 2020.
 - The development proposed is proposed dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr & Mrs R Halhead against Amber Valley Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council's decision notice refers to the Crich Parish Neighbourhood Plan. It is clear from the appeal submissions that the policy referred to, Policy NP1, is part of the Hazelwood Parish Neighbourhood Plan (NP) (made 2016). I have been provided with a copy of this document and I have assessed the appeal on that basis.
4. There is no dispute that the appeal site is located within the Green Belt. The appellant contends that very little weight can be attached to the policies on the Amber Valley Borough Local Plan (LP) (2006). Policy EN2 (Green Belt) of the LP does not include all the exceptions for development in the Green Belt listed within the National Planning Policy Framework (the Framework). Whilst Policy EN2 is therefore inconsistent with the Framework, the Council has not relied on this policy or others in the LP in their reasons for refusal. The Policy referred to in the decision is Policy NP1 of the NP. This policy is not limited to Green Belt considerations but is relevant in that it supports proposals for single dwellings in Hazelwood Parish subject to certain criteria including that they are in accordance with national policies that protect areas of Green Belt. I have therefore assessed the appeal against this policy and the Framework.

Main Issue

5. The main issues are:
 - (i) Whether or not the development is inappropriate development in the Green Belt including its effect on openness.

(ii) The effect of the proposal on the character and appearance of the area.

(iii) If the proposal would be inappropriate, 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

Whether or not inappropriate in the Green Belt including the effect on openness

6. Policy NP1 of the NP confirms amongst other things that proposals for single dwellings, that can be demonstrated to satisfy the principles of sustainable development set out in the Framework, will be supported on sites within and well-integrated with the groups of continuous buildings forming settlements at, amongst others, Firestone.
7. The Neighbourhood Plan confirms that the Parish is made up of five main clusters, one of which is 'Firestones, Goodwin's Lane'. However, Map 5 'Settlements in the Plan area' in the NP does not include any defined settlement boundaries. The NP describes development on 'Firestones, Goodwin's Lane' as being amongst other things 'a loose grouping' of properties. The buildings associated with Chevin Quarry lodge and the neighbouring property at Rose Cottage are few in number and are set away from the small cluster of dwellings further along Firestones with intervening woodland and fields. Taking all these factors into account, I am not persuaded that the site is well-integrated with a group of continuous buildings.
8. In any case, whether or not the site sits within a settlement according to the NP is not on its own determinative. The site is situated within the Green Belt and Policy NP1 is clear that support for such proposals is subject to specific criteria including at NP1 d) that it must be in accordance with national policies that protect the Green Belt. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than in specific exceptions.
9. Notwithstanding references in the appendix H of the NP to a 'Village Design Statement', the development pattern is such that the appeal site is undoubtedly in the countryside and not within a village. Therefore, it would not meet the exception for limited infilling in villages under paragraph 145 e) of the Framework. Exception g) allows for limited infilling of previously developed land which would not have a greater impact on the openness of the Green Belt than existing development. The Glossary to the Framework confirms that previously developed land can include land which is occupied by a permanent structure including the curtilage of the developed land. Therefore, the development could meet exception g) subject to an assessment of the impact on openness.
10. Paragraph 133 of the Framework sets out the essential characteristics of Green Belts, which are their openness and permanence. It has been held in the High Court that openness is epitomised by the lack of buildings or development. Openness is a separate issue from the effect of a development on the character and appearance of an area.
11. Even accounting for the position of the development close to the existing dwellings at Chevin Quarry Lodge and Rose Cottage, its two-storey height and

its elevated position mean that it would inevitably increase the presence of built form within the landscape. This would be particularly evident for passers-by on Firestone and from vantage points in the wider landscape, including from the Public Right Of Way (PROW) on the field that sits opposite the site. In addition to the visual impact on openness, my assessment must also take any spatial impact into consideration. The footprint, height and volume of any dwelling would undoubtedly affect openness from a spatial perspective when compared with the current situation given there are presently no buildings on the part of the curtilage where the proposed dwelling would be positioned. Overall, the development would have a greater impact on the openness of the Green Belt than the existing development and would not meet exception g) or any of the other exceptions under Paragraph 145 of the Framework.

12. I conclude, the development constitutes inappropriate development and would not preserve the openness of the Green Belt. In that regard it would conflict with the aims of including land within the Green Belt when assessed against the relevant policy in the development plan and the Framework.

Whether or not there is any other harm - Character and appearance

13. The site is situated within a hilly and predominantly rural topography and the position of the proposed dwelling is screened by a substantial hedge to the shared boundary with Rose Cottage. Woodland occupies the hillside to the side and rear boundaries of the wider curtilage of Chevin Quarry Lodge. Therefore, even though the site sits within residential curtilage, the space between buildings and the surrounding vegetation are consistent with the prevailing open and soft landscaped rural character and appearance of the area.
14. The existing dwellings at Rose Cottage and Chevin Quarry Lodge are roughly aligned with each other. From the highway there is a wide gap between these buildings and the detached garage serving Rose Cottage. The dwelling would occupy a prominent elevated position within this gap when viewed from the highway on Firestone and the nearby PROW. The height, width, mass and design of the building would significantly increase the presence of domestic built form within the wider landscape to the detriment of the overriding spacious and rural characteristics of the area.
15. I conclude that the development would result in significant harm to the prevailing rural character and appearance of the area. In that particular regard, the development would conflict with the aims which seek to protect character and appearance and the intrinsic beauty of the countryside in the Framework.

Other considerations

16. The appellant has referred to the previous use of the site as part of Chevin Quarry. However, the definition of previously developed land within the Framework excludes where provision of restoration has been made on such sites or the remains of previous development have blended into the landscape. I therefore afford limited weight to this argument and in any case have found that the development would have a greater impact on openness than existing development which would be contrary to the requirements of the Framework.
17. The development is intended to provide accommodation for an elderly relative in the first instance. However, the proposal is for a three-bedroom dwelling

rather than ancillary accommodation primarily for the care of a dependant relative. In that regard, I afford some positive weight in terms of the boost to housing albeit this would be limited in the context of a single dwelling. Furthermore, the appellant has not disputed that the Council can demonstrate a 5-year supply of deliverable housing land.

18. Even though the Parish Council did not object to the principle of the development, for the reasons set out, the development would not meet the specific requirement in the NP for development to accord with national policies that protect the Green Belt. The acceptability of the development in respect of other development management requirements including highways and ecology matters carries neutral weight rather than being an added benefit.

Green Belt Balance and Conclusion

19. The development constitutes inappropriate development in the Green Belt. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. Moreover, I have found that the proposal would be harmful to the openness of the Green Belt. I have also identified harm to the character and appearance of the area. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome.
20. I have found that the other considerations in favour of the proposal would only carry limited weight.
21. In conclusion and on balance, the substantial weight to be given to Green Belt harm, is not clearly outweighed by these other considerations and therefore the very special circumstances needed to justify the proposed development do not exist.
22. Even if one were to disagree with my view that Policy NP1 of the NP was the most important policy for determining the appeal in the absence of any other up-to-date Green Belt policies in the development plan, that would not alter the fact that the development would be inappropriate in the Green Belt which would provide a clear reason for dismissing the appeal with reference to Paragraph 11 d) i footnote 6 in the Framework.
23. For the reasons given the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR