The Planning Inspectorate

Appeal Decision

Site Visit made on 17 February 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal Ref: APP/P1805/W/20/3261731
Land Between Rose Hill House And No 5 Warren Lane, Rear Of No 4 Rose Hill, Warren Lane, Lickey, Bromsgrove, Worcestershire B45 8ER

- 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 M Gough against the decision of Bromsgrove District Council.
- The application Ref 19/01238/FUL, dated 26 July 2019, was refused by notice dated 23 April 2020.
- The development proposed is new dwelling.

Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at Land Between Rose Hill House And No 5 Warren Lane, Rear Of No 4 Rose Hill, Warren Lane, Lickey, Bromsgrove, Worcestershire B45 8ER in accordance with the terms of the application, Ref 19/01238/FUL, dated 26 July 2019, subject to the conditions in the Schedule at the end of this decision.

Preliminary Matter

2. With the appeal, the appellant has provided a statement in response to the Council's concerns relating to highways which includes a drawing showing visibility splays for the proposed access. As this does not significantly alter the development, I am satisfied that taking it into account would cause no injustice or prejudice to any party.

Main Issues

3. In light of the information provided with the appeal, the Council has confirmed it no longer objects to the proposal on grounds relating to the effect on the highway network. I find no reason to arrive at a different view on the matter. Accordingly, the main issues are:-

    - whether the proposal would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy; and
    - whether the proposal would be in a suitable location having regard to accessibility to services.

Reasons

Whether inappropriate development in the Green Belt

4. Policy BDP4 of the Bromsgrove District Plan 2017 (DP) defines new buildings in the Green Belt as inappropriate development except for in a number of defined circumstances. These exceptions include limited infilling in Green Belt

settlements. This policy generally accords with the Framework, although this refers to limited infilling in villages rather than settlements. Paragraph 146 of the Framework defines engineering operations as not inappropriate development in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it.

5. The proposal would provide a single new dwelling in a gap between Rose Hill House and 5 Warren Lane. Therefore, it would represent limited infilling. The site is in the Green Belt but it is close to the boundary with the Barnt Green (including Lickey) larger settlement as defined in the DP. The nearby Holy Trinity Church is seen from Warren Lane to the front of the plot. Also, it is a short distance from the site to the sizeable cluster of properties on Rose Hill and Twatling Road, including the village hall and school. Due to its close relationship to existing development, the proposal would be seen as part of the built up area. Also, it is reasonable to consider Lickey as a village given the distinct concentration of houses and the range of facilities it contains.

6. The site is not in any of the village settlements referred to under DP policy BDP2.3, although this policy does not explicitly prevent limited infilling in any other village in the Green Belt. In any event, case law in *Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195* has held that boundaries as defined in a development plan may not be determinative in establishing whether a development would be limited infilling in a village. For the reasons given above, the site forms part of Lickey regardless of the defined settlement boundaries and so, having regard to the situation on the ground, the proposal would represent limited infilling in a village. Therefore, the development would be one of the exceptions as set out in DP policy BDP4 and paragraph 145 of the Framework. Consequently, there is no requirement to consider the effect of the proposed dwelling on the openness of the Green Belt.

7. The rear of the proposed house would be set into the slope on the site and so the development would include some engineering operations. The appellant advises of the general intention to remove excavated material rather than reprofile the land. No comprehensive information on groundworks has been submitted but a planning condition could be imposed to prevent the distribution of excavated material that would fail to preserve the openness of the site. As such, the scheme would comply with paragraph 146 b) of the Framework.

8. For the above reasons, I conclude the proposal would not be inappropriate development in the Green Belt. In this regard, it would accord with DP policy BDP4 and the Framework.

Suitability of location

9. A church, village hall, day nursery and petrol station with shop are all located towards the north part of Lickey. In light of the short separation distances, it is highly probable that future occupiers of the proposal would walk to these facilities. The village primary school is further away but it is reasonable to expect this would be within a walkable distance for some future residents. Also, bus stops would be within an acceptable walking distance from the dwelling and would provide access to public transport links to Bromsgrove and other larger settlements with a broader range of facilities and employment opportunities.

10. While Warren Lane has no pavement or street lighting it is tarmacked and subject to a 15 miles per hour speed limit with humps in the road to discourage fast traffic movement. My visit can only provide a snapshot in time but from my observations vehicular speeds are low and Warren Lane is popular with walkers. No specific guidance has been brought to my attention that suggests the distance from the site to the pavement on Rose Hill would be unsafe for pedestrians, even in the absence of a formal segregated route from vehicles. Accordingly, it is unlikely that the nature of Warren Lane would deter residents and visitors from walking to and from the proposal.

11. One of the nearby bus stops is on the opposite side of Rose Hill to the appeal site. However, this already serves the northern part of the village and there is no evidence that indicates its usage has been the cause of any particular highway or pedestrian safety issue. As such, I am unconvinced that residents of the proposal would be dissuaded from using public transport due to the need to cross the road.

12. Therefore, the location of the development would provide users with a fair degree of accessibility to services by means other than the private car. As such, it is likely that occupiers of the development would support local facilities and so would contribute to the vitality of the community.

13. For the above reasons, I conclude the development would be in a suitable location having regard to accessibility to services. In this regard it would accord with DP policies BDP1 and BDP2 which, amongst other things, require consideration of accessibility to public transport and seek to reduce the need for travel. The proposal would not fully accord with DP policy BDP2 in that it would be outside any defined settlement. However, the considerations set out above are of sufficient strength to collectively outweigh this non-compliance.

Other Matters

14. The proposed house would include unusual elements such as a partial flat roof and extensive glazing on its front elevation. However, there is no significant degree of uniformity in the style and appearance of nearby properties and the development would retain significant open space to the front. As such, it would not be markedly incongruous by reason of its design or scale but instead it would integrate with the area's character. In this regard, the scheme would accord with policy H1 of the Lickey and Blackwell and Cofton Hackett Neighbourhood Plan 2020.

15. Separation distances, ground levels and screening provided by vegetation would all prevent unacceptable overlooking from the proposed house to 4 and 6 Rose Hill. Also, the position of the development in relation to other properties would avoid harmful loss of privacy or any other detriment to the living conditions of nearby residents. The scheme would include adequate parking facilities and it would cause no unacceptable highway safety hazard given the nature and speed of traffic on Warren Lane. In the absence of any substantive evidence to dismiss the appeal on any of the above grounds, the concerns raised do not override or affect my conclusions on the main issues.

Conditions

16. I have considered the list of conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the

wording for reasons of precision. Also, while not suggested, I have imposed a condition listing the approved drawings for reasons of clarity and to ensure the development is carried out in accordance with the plans.

17. I attach a condition that requires approval of a site management plan that sets out existing and proposed levels and how excavated material is to be exported from the site. This is required to ensure the scheme does not include inappropriate development and is acceptable in terms of living conditions and highway safety. It is unnecessary for this condition to require approval of the destination of any exported spoil as this would not directly relate to the development.

18. To protect trees, conditions are imposed to ensure excavations within root protection areas are carried out by hand and the installation of protective fencing. In the interests of highway safety, a condition is included that requires pedestrian visibility splays. This is necessary even though there is no pavement on Warren Lane as pedestrians may walk close to the proposed access. For the same highway safety reason, I impose conditions that require provision of parking and turning facilities, as well as the access with a bound surfacing.

19. To encourage environment-friendly travel, a condition is imposed that requires an electric vehicle charging point. Also, a condition relating to the provision of bat and swift boxes is required to ensure the proposal has an acceptable effect in terms of biodiversity.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

Jonathan Edwards

INSPECTOR

Schedule of Planning Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3941/18, 3941/19, 3941/20, 3941/25, 3941/26, 3941/27, 3941/28, 3941/31, 3941/46, 3941/47, 3941/48 and 3941/50.

3) Prior to the commencement of the development hereby approved, a site management plan shall be submitted to and approved in writing by the local planning authority. The plan shall include (but not exclusively) the following details:

- existing and proposed ground levels on the site;

- the amount of soil that would be excavated and removed from the site as a result of the proposal;

- the number of lorry movements required to remove the soil;

- the hours of work to carry out the proposed ground level changes and removal of soil; and

- the routing that lorries will use when accessing/egressing the site.

Thereafter, the development shall be carried out in accordance with the approved details.

4) All trees indicated to be retained on the approved plans and their root protection areas shall be protected during clearance and construction of the development in accordance with BS5837:2012, using suitable protective fencing and/or ground protection. There shall be no storage of plant/materials within the root protection areas of any retained trees during the construction of the approved development.

5) Any excavations within the root protection areas of trees indicated to be retained on the approved plans shall be carried out by hand and in accordance with BS5837:2012.

6) The development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on the approved plans. The first 5 metres of the access onto the site measured from the edge of the carriageway shall be surfaced in a bound material. The parking and turning areas and access shall thereafter be retained and only used for these purposes.

7) The development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the front boundary of the site shall be provided on both sides of the access. The splays shall thereafter be maintained free of obstruction exceeding a height of 0.6m above the adjacent ground level.

8) The development hereby approved shall not be first occupied until it has been fitted with an electric vehicle charging point. The charging point shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging point shall be retained for the lifetime of the development unless it needs to be replaced in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.

9) The development hereby approved shall not be first occupied until a bat box and a swift box or equivalent is placed on the approved dwelling and thereafter these shall be kept in perpetuity.