

Appeal Decision

Site visit made on 16 March 2021

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th April 2021

Appeal Ref: APP/N3020/W/20/3259804

Land to the Front of 80 Bridle Road, Burton Joyce NG14 5FS

- 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 and Mrs T Labbate against the decision of Gedling Borough Council.
 - The application Ref 2020/0499, dated 1 June 2020, was refused by notice dated 24 July 2020.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at Land to the Front of 80 Bridle Road, Burton Joyce NG14 5FS, in accordance with the terms of the application Ref 2020/0499, dated 1 June 2020, and subject to the conditions set out in the attached schedule.

Main Issues

2. The appeal site lies within an area of Green Belt. Therefore, the main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the Framework;
 - The effect on the openness of the Green belt and the purposes of including land within it;
 - The effect on surrounding landscape character;
 - 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

Whether inappropriate development

3. The Government attaches great importance to Green Belts. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but it lists certain forms of development which are not regarded as inappropriate, including e) limited infilling in villages.
4. Policy LPD15 of the Part 2 Local Plan (July 2018) (the P2LP) sets out that infill development in the Green Belt is not inappropriate provided several criteria are

- met, including that the scale is limited; it involves development of a gap within a village or a site enclosed by buildings on at least two sides; is within the fabric of the village or a previously developed site; and where it does not have a detrimental impact on the openness of the Green Belt or the reasons for including land within it.
5. The Council refused the application on the basis that the proposal did not constitute limited infilling in a village. It concluded that the site does not constitute a small gap and it cannot be reasonably described as being enclosed by buildings on at least two sides. Therefore, the determinative questions to be considered are, firstly, whether the proposal would constitute infilling, and *limited* infilling at that, and secondly, whether it would be within a village.
 6. On the first question, the Framework does not define 'limited infilling'. However, the supporting text of Policy LPD15¹ states that infilling is considered to be the development of small gaps within the fabric of the village or previously developed sites. It adds that proposals should be 1 to 2 dwellings to be classed as 'limited', and up to 150 sqm in area.
 7. Bridle Road is a steep, straight unadopted road leading uphill out of the village of Burton Joyce. There is continuous linear housing development on both sides of the road. The appeal site is a roughly rectangular plot standing beyond No 70 which represents the end of the linear development on one side. The appeal site was formerly part of the garden of 80 Bridle Road, which stands behind the site at the end of a long drive located between the appeal site and No 70. No 88 stands beyond No 80 and is accessed by a driveway on the other side of the appeal site. The linear development on the opposite side continues for some distance uphill.
 8. There is no development beyond the site on the adjacent side, and as such the proposal would not infill a visible 'gap' in a linear pattern of development. However, Policy LPD15 also permits development of a site enclosed by development on at least two sides. Given that this is provided as an alternative to 'development of a gap', it follows that the policy is permissible of proposals where there is development to any two sides of the site, not just two opposite sides. In this case, the site is enclosed by No 70 to the side and No 80 to the rear. From my observations, the separation distance between Nos 70 and 80 and the appeal site would not be out of scale with the pattern of development in the area. Therefore, I find that the proposal would amount to infill development in accordance with Policy LPD15.
 9. In terms of whether it would be 'limited' infill, the proposal for a single dwelling is evidently limited in number. In terms of scale, the site is wider than the plots of semi-detached dwellings from Nos 56-79, but is not wider than other sites along Bridle Road, including No 80. The separation distances to the nearest dwellings of between 25 to 40 metres would not be excessive considering the semi-rural context and detached nature of many of the dwellings on Bridle Road. The dwelling itself would have a broad footprint, but again this would not be inconsistent with surrounding development. Within this context, I find the scale of the proposal would be limited within the terms of Policy LPD15 and the Framework.

¹ Paragraphs 6.5.2 and 6.5.3

10. I turn then to the question of whether the proposal would be within a village. Neither Policy LPD15 nor the Framework defines or qualifies 'village' for the purposes of applying the policy or guidance. It is therefore a matter of planning judgement based on the facts on the ground. In this case, development is continuous up to the appeal site and for some distance beyond on the opposite side. The driveway to No 88 also forms a natural delineation between the developed properties of Nos 80 and 88 and the open agricultural fields beyond. Given these physical characteristics, I am satisfied that the site is located within the village for the purposes of applying Green Belt policy.
11. Taking these considerations together, I find that the proposal would amount to limited infilling within a village within the meaning of criterion e) of Paragraph 145 of the Framework, and in accordance with Policy LPD15 of the P2LP. Consequently, the proposal would not constitute inappropriate development within the Green Belt. In light of this finding, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it. There would therefore be no conflict with criterion d) of Policy LPD15. The Council's reason for refusal also refers to Policy 3 of the Aligned Core Strategies Part 1 Local Plan (Sept 2014), but this refers to the principle of the Green Belt and process for reviewing its boundaries, and is not directly relevant to the present appeal.
12. Moreover, given that the proposal would not amount to inappropriate development, there is no need for me to go on to consider whether very special circumstances exist in order to justify the development.

Effect on landscape character

13. The Council's reason for refusal cites conflict with Policies LPD19 of the P2LP, and Policy NP2 of the Burton Joyce Neighbourhood Plan 2018 (the BJNP). It is not made explicit in its reason for refusal, but the Council's delegated report refers to an adverse impact on the surrounding landscape character, and it is to this issue that the aforementioned policies refer.
14. The site lies within the Dumbles Rolling Farmland² landscape type, the key characteristics of which include a series of ridges and valleys of rolling arable farmland, regular field patterns, dense hedges with trees giving a wooded appearance, views of settlements filtered by hedgerows and settlements appearing well integrated into the landscape. The Landscape Character Assessment 2009 sets out a general approach of conserving these key features. The site exhibits several of these characteristics, particularly when viewed from the higher ground to the north where farmland and built form are within the same vista. From here, the trees surrounding the site provide a wooded appearance and help integrate the site into the landscape.
15. The proposal would take the form of a contemporary, low profile bungalow with accommodation in the roof space. Viewed from the north, it would be set down into the site which would reduce its visible massing. It would not occupy an exposed position in the landscape, but would be screened by characteristic perimeter vegetation, which would further limit its visual impact. Bridle Road has a number of bungalows which vary in size, form and style, several of which stand on larger plots, and the proposal would reflect surrounding development

² As set out in the Council's Landscape Character Assessment 2009, and repeated at Appendix B of the Burton Joyce Neighbourhood Plan 2018

in this respect. Although the dwelling would be forward of the building line of Nos 56-79, there would be significant tree cover in between, such that the difference in position would not be obvious in views along the road.

16. Given this particular site context, I conclude that the proposal would not have a significant adverse effect on the key characteristics of the surrounding landscape character. Accordingly, I find no conflict with Policies LPD19 of the P2LP or NP2 of the BJNP, which together resist development which would have a significant adverse effect on the character of the landscape.

Other Matters

17. The Council did not refuse permission in respect of other matters, including parking, access and highway safety, neighbour's living conditions, trees or biodiversity. Some of these issues have prompted comment from interested parties, to which I have regard. I also note other concerns raised including lack of affordable housing in the area and loss of a small holding. I do not dismiss these concerns, but the evidence before me in these respects is limited and does not indicate these matters would give rise to additional harms to be weighed in the planning balance.
18. I note several comments raising concern at a potential increase in surface water run-off affecting properties downhill of the site. The Council has not commented in detail on this matter, but has put forward a condition requiring surface water run-off to be contained within the site. I also note the comments of the Trent Valley Internal Drainage Board that the design of site drainage systems must be agreed with the local planning authority and Lead Local Flood Authority. Given the topography of the area, I agree that the details of measures to address the potential increase in surface water run-off should be agreed in advance of their installation and use. Subject to a condition to this effect, I am satisfied that the proposal would not have a significant adverse effect on flood risk or drainage in the area.
19. Interested parties have raised concern that the proposal would set a precedent for wider development of Green Belt land in the area. Whilst I appreciate previous planning decisions are often cited in support of proposals, they must ultimately be determined on their own merits. As set out above, the assessment of whether a site amounts to limited infilling in a village involves considering various factors which will differ in each case depending on a site's location. Therefore, I do not consider that a decision to allow the appeal would establish a precedent which would jeopardise the protection of the Green Belt.

Conditions

20. I have had regard to the list of conditions suggested by the Council. Where necessary, I have adjusted the wording of the condition to ensure it meets with the relevant tests for conditions set out at Paragraph 55 of the Framework. The appellant has agreed in writing to the wording of those conditions which would be pre-commencement.
21. In addition to the standard time limit for implementation, a condition setting out the approved plans is necessary to provide certainty.
22. Conditions setting out how existing trees on site shall be protected during construction and detailing existing and proposed ground and finished floor levels are necessary to preserve the character and appearance of the area. A

condition requiring submission and approval of a Construction Emission Management Plan is also necessary in the interests of maintaining air quality and neighbours' living conditions. These conditions are pre-commencement as the harms they seek to address are likely to occur from the outset of works on site, and later triggers for the submission and implementation of details would render them ineffective.

23. The Council has requested a condition requiring details of the proposed means of enclosure to be submitted and approved in writing before ground works commence. I agree such details are necessary in the interest of the character and appearance of the area. For the same reason, and given details are not specified on the plans, I also consider it necessary that the details of the external facing materials of the dwelling are agreed prior to their installation on site. I have amended the point at which this condition must be met to development above slab level, as requiring the details prior to any ground works is tantamount to a pre-commencement condition, which is unnecessary.
24. A condition is necessary to ensure the access and parking areas are laid out in bound material prior to the development being brought into use in the interests of highway safety. As explained above, a condition is required to ensure surface water does not discharge onto the highway, in the interest of highway safety and managing flood risk. A condition requiring installation of a connection for the recharging of an electric vehicle is also necessary to promote air quality and sustainable transport.
25. Finally, the Council seeks by condition a restriction on permitted development (PD) rights for extensions, roof alterations, porches and outbuildings. The Planning Practice Guidance states that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity and should be precisely defined. The Council's brief reason for the imposition of the condition is to protect the Green Belt. However, given my findings that the dwelling would not be harmful to the Green Belt, and having regard to the particular form of the dwelling and site layout, I am not persuaded that there would be a demonstrable risk to the character of the surrounding area, or to the purposes of the Green Belt, from works under PD in this case. Therefore, I have not imposed the condition.

Conclusion

26. Taking all matters into account, there are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, therefore, I conclude that the appeal should be allowed.

K Savage

INSPECTOR

Schedule of 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: BRID- (Site Levels) BRID-01 (Site Location Plan), BRID-02 (Proposed Site Plan), BRID-03 (Proposed Plans), BRID-04 (Proposed Plans), BRID-05 (West Elevations), BRID-06 (South Elevations), BRID-07 (East Elevations) and BRID-08 (North Elevations); Tree Survey and Biodiversity Survey and Report received 1 June 2020.
- 3) No development, including any site preparation works, shall take place until a scaled plan of the site showing the position of tree protection fencing to the trees to be retained at the site, in accordance with BS5837:2012, has first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the fencing shall remain in place during the development of the site at all times and shall only be removed following the completion of the development.
- 4) No development shall take place until details of the existing and proposed ground levels of the site and finished floor levels of the dwelling have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.
- 5) No development shall take place until a Construction Emission Management Plan (CEMP), detailing measures for minimising the emission of dust and other emissions to air during the site preparation and construction, has first been submitted to and approved in writing by the Local Planning Authority. The CEMP must be prepared with due regard to the guidance produced by the Local Planning Authority on the assessment of dust from demolition and construction and must include a site specific dust risk assessment. All works on site shall, thereafter, be undertaken in accordance with the approved CEMP.
- 6) No building operations shall progress beyond slab level until details of the proposed external materials of the dwelling and means of enclosure of the site have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the life of the development.
- 7) The dwelling shall not be occupied until all drives and parking areas are surfaced in a bound material (not loose gravel). The surfaced drives and parking areas shall thereafter be maintained in such bound material for the life of the development.
- 8) The dwelling shall not be occupied until the parking area is constructed with provision to prevent the unregulated discharge of surface water from the parking area onto the highway, the details of which shall first be submitted to and approved in writing by the Local Planning Authority. The provision to prevent the unregulated discharge of surface water onto the public highway shall then be retained for the life of the development.

- 9) The dwelling shall not be occupied until one or more dedicated vehicle parking spaces and/or a garage have been provided with access to an electric vehicle (EV) charge point. Charge points must have a minimum power rating output of 7kW on a dedicated circuit, capable of providing a safe overnight charge to an electric vehicle. All EV charging points shall meet relevant safety and accessibility requirements and be clearly marked with their purpose; which should be drawn to the attention of new residents in their new home welcome pack / travel planning advice.

End of Schedule