



Appeal Decision

Site Visit made on 11 May 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/T3725/W/21/3267521

Land at junction of Rising Lane & Birmingham Road, B93 0DA

- 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 Mrs Deborah Dunn and Mr David Wood against the decision of Warwick District Council.
 - The application Ref W/20/0358, dated 25 February 2020, was refused by notice dated 24 July 2020.
 - The development proposed is two detached houses, green belt infill, within residential area.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - ii) the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - iii) the effect of the proposal on the character and appearance of the area;
 - iv) the effect of the proposal on local biodiversity, and;
 - v) if the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

3. The appeal property lies within the Green Belt. National policy on development in the Green Belt is set out in the Framework, which advises that the essential characteristics of Green Belts are their openness and permanence. There is a general presumption against inappropriate development in the Green Belt unless very special circumstances exist. Most new development should be regarded as inappropriate, but for certain defined exceptions.

4. Paragraph 145 of the Framework lists exceptions to inappropriate development within the Green Belt and in doing so states that the construction of new buildings should be regarded as inappropriate in the Green Belt unless the exceptions listed apply. Exception e) refers to the limited infilling in villages. The terms 'limited' and 'infilling' are not defined in the Framework but policy H11 of the Warwick Local Plan (2017) sets out what the Council considers to be limited infilling.
5. The appeal site is in a 'limited infill village' and therefore the principle of the development is supported given that small developments within settlement boundaries are supported provided they are appropriately located along street frontages and do not have a harmful effect on the integrity and character of the village. The development would be for no more than two dwellings, satisfying criterion a) of policy H11.
6. When looking at the site from the west, the site is appreciated within the wider context of built development on the opposite side of Birmingham Road. However, given the juxtaposition of these houses to the appeal site and the road in-between, they are not part of the line of frontage properties along Rising Lane. Consequently, the appeal site is at the end of a line of frontage properties. Criterion b) of policy H11 supports the infilling of a small gap fronting the highway. 'Gap' refers to a space between two objects and when reading policy H11 in the round, the 'infilling of a small gap' suggests to me a space between properties. Being at the end of a row of houses, the development would not fulfil criterion b). For development to be acceptable, policy H11 requires criterion b) and c) to be met. Given that the development would not meet criterion b), the development would be contrary to policy H11, irrespective of any assessment against criterion c).
7. The appellant refers to limited infill proposals which have been granted planning permission on the adjacent site. I see from the Council's assessment that the development was considered acceptable, largely owing to the proposal being between two properties. Any reference to size of gap was not the determining issue in relation to Green Belt. As identified above, the appeal proposal would not be between two properties and therefore these permissions do not set a precedent in favour of the appeal.
8. The development, therefore, would not comprise limited infill in a village and as well as being contrary to policy H11, would not meet exception e) of the Framework. As such, the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies. Inappropriate development is, by definition, harmful to the Green Belt and the Framework directs that substantial weight should be given to this harm.

Effect on Openness and Green Belt purposes

9. The Framework (paragraph 133) indicates that openness is an essential characteristic of the Green Belt with a fundamental aim of Green Belt policy being to prevent urban sprawl and keep land permanently open. The two dwellings, by virtue of their scale and massing, would result in a significant erosion of three-dimensional space and would intrude into an area that is currently devoid of development.

10. Whilst the site is within the Green Belt that has a purpose to prevent urban sprawl, the site is within a village. And whilst on the edge of a village, this is not readily perceived on the ground; the proximity of development on the opposite side of Birmingham Road places the site within a mostly urban area. Therefore, developing the site would not have a discernible adverse effect on the aim of Green Belt policy to prevent urban sprawl.
11. Notwithstanding this, I have found that the appeal proposal would result in significant harm to the openness of the Green Belt and would be contrary to a fundamental aim of Green Belt policy to keep land permanently open, as set out in the Framework. In accordance with the Framework, substantial weight must be given to this harm.

Character and appearance

12. The appeal site is surrounded by built development and therefore on any of the approaches along adjoining roads, the site is perceived as being within an urban area, as opposed to a rural one. On plan, it is apparent that the line of soft landscaping along Birmingham Road and adjoining the appeal site separates one village from another. However, when walking about the area you could be forgiven for thinking that Baddesley Clinton and Chadwick End were part of the same village. The soft landscaping acts more as a visual screen to the site and creates a verdant edge to Birmingham Road than having any strategic role in separating the villages. I see that the site has been previously developed which reinforces my point that the site plays a limited strategic role in separating out the villages.
13. The site itself, being a corner plot, is prominent in local views and by virtue of the vegetation growing on it, contributes to the positive effect landscaping has on the character of the village. That said, the site is overgrown and untidy in appearance which reduces its contribution to the visual qualities of the village. Given the prevalence of development around the site, and the busy Birmingham Road which adjoins it, two houses in principle would not appear unduly discordant.
14. I recognise that this view was not shared by an Inspector who found that development on the site would disrupt the rural edge of the village. However, for the reasons given above, I do not agree that the site creates a rural edge to the village. With no evidence of the appeal decision at this time, I am unable to make further comparisons, but I see that the decision was made over ten years ago when policy and site context will have measurably changed.
15. Notwithstanding this, the houses would be highly prominent and much of the plot would be occupied by built development and hardstanding. The evidence refers to mature planting proposed but there is no evidence of this on the drawings before me. The site plan alludes to soft landscaping at the peripheries of the site which does not allay my concern that the site would appear unduly urban. The development would therefore appear unduly dominant alongside the more subtle forms of development in the area. The fact that the site has no heritage designations does not lessen the importance of ensuring that the design of the development is commensurate with its surroundings.
16. Therefore, for the reasons given, the development would be harmful to the character and appearance of the area and contrary to policy BE1 of the

Warwick Local Plan (2017) which, amongst other things, seeks development that positively contributes to the character and quality of its environment.

Biodiversity

17. As the evidence confirms, there would be a loss of habitat. As required by policy NE3 of the Warwick Local Plan (2017), the appellant has not provided any evidence as to why biodiversity cannot be better protected or enhanced. Furthermore, there is no evidence of mitigation measures being explored. Policy NE3 states that only when these options come to no avail should compensatory measures involving biodiversity off-setting be secured. In light of the evidence before me, the appellant's financial contribution towards off-setting seems premature. And if this was found not to be the case, I have no legal agreement before me to demonstrate a commitment to the financial contribution proposed.
18. Therefore, the development would result in a notable loss of biodiversity, contrary to policy NE3 which seeks to protect, enhance and/or restore habitat biodiversity.

Other considerations

19. The development would contribute two houses to local housing supply and would tidy up an otherwise unkempt site. These are moderate benefits which weigh in favour of the scheme.

Planning balance

20. The proposal would amount to inappropriate development as defined by the Framework, and which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the proposal would lead to a loss of openness to the Green Belt and harm to the character and appearance of the area and biodiversity. Substantial weight is given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
21. As set out above, I give moderate weight to the other considerations advanced by the appellant, but I find that these, taken together do not clearly outweigh the harm the scheme would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.

Conclusion

22. For the reasons set out, the proposal would conflict with the development plan when taken as a whole. Material considerations put forward in this case do not indicate that permission should be granted in spite of this conflict. Therefore, the appeal is dismissed.

R Walmsley

INSPECTOR