The Planning Inspectorate

Appeal Decision

Site Visit made on 25 May 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/M1005/W/21/3269910
Land to the rear of 153 Sandbed Lane, Belper, Derbyshire DE56 0SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Miss Alison Rae against the decision of Amber Valley Borough Council.
- The application Ref AVA/2020/0600, dated 21 June 2020, was refused by notice dated 28 August 2020.
- The development proposed is a single new dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with all matters reserved. I have considered the appeal on this basis.

Main Issues

3. 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 provisions of the National Planning Policy Framework (the Framework);
   - The effect on the openness of the Green belt and the purposes of including land within it;
   - The effect on the character and appearance of the surrounding area;
   - 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

4. 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 and Paragraph 146 list certain forms of development which are not regarded as inappropriate.

5. Policy EN2 of the Amber Valley Borough Local Plan (2006) (the Local Plan) permits only 'appropriate development' in the Green Belt, with some similar exceptions to the Framework. It is not wholly consistent with the Framework due to the different terminology and absence of several exceptions to inappropriate development. Therefore, in accordance with Paragraph 213 of the Framework, I afford limited weight to this policy and have assessed the proposal primarily against the Framework.

6. The proposal is for a dwelling on an undeveloped site to the rear of the linear development on Sandbed Lane. The appellant makes a brief submission that the proposal may be considered as 'infill' development. Exception e) to inappropriate development at Paragraph 145 is 'limited infilling in villages.'

7. There is no definition of 'infill' within national policy or any local policy or guidance to which I have been referred. However, a straightforward interpretation of the term would indicate that the development would occupy a gap between two buildings or developments. In this case, the dwelling would be set well behind the built form on Sandbed Lane. The appellant argues that the gap from the rear of the garden of No 153 to the front boundary of Highwood House is only 50 metres. However, the gap between the dwellings is closer to 100 metres. Even so, the proposal would occupy only a small portion of this space, and could not be said to infill the gap between the properties on either side. Rather, it would stand as a lone building in the open countryside.

8. Moreover, neither main party has put evidence to me as to the status of Sandbed Lane and whether it forms part of a village. However, even if I were to consider the site to be part of a village, it would not amount to limited infilling for the reasons set out above.

9. No other exceptions to inappropriate development are advanced by the appellant, and the evidence does not suggest any apply. Therefore, I find that the proposal would not meet any of the exceptions set out under Paragraphs 145 and 146 of the Framework or Policy EN2.

10. Consequently, in principle, the proposal would amount to inappropriate development within the Green Belt and would conflict with the aims of the Framework and with Policy EN2 of the Local Plan. Inappropriate development is, by definition, harmful to the Green Belt and the Framework directs that substantial weight should be given to any harm to the Green Belt.

Openness of the Green Belt and Green Belt Purposes

11. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.

12. The appeal site is an undeveloped paddock laid to grass at the rear of 153 Sandbed Lane, accessed by a private lane running to the side of the dwelling and leading to the former Tooterhill Cottage (now Highwood House). The maintained grass and presence of wooden seats and a picnic table indicate that the paddock is used on occasion for domestic recreation. However, it is absent any permanent built form and it forms part of continuous open countryside which extends out behind the linear development on Sandbed Lane, with the lone exception of Highwood House to the rear of the appeal site. In spatial

terms, the proposal would introduce built form where there presently is none, in conflict with the fundamental Green Belt aim of keeping land permanently open.

13. In visual terms, the developed site would be seen from the adjacent private lane and from the upper floors of several properties on Sandbed Lane. From these vantage points, the absence of development on the site is obvious and the development would be clearly visible.

14. For these reasons, the proposal would result in a significant and harmful loss of Green Belt openness. Moreover, the proposal would lead to encroachment of development into the countryside and would impact on the related Green Belt purpose.

Effect on Character and Appearance

15. Development on Sandbed Lane is predominantly in a linear pattern, with dwellings set back from the road on long, narrow plots with moderate front gardens and deep rear gardens. Highwood House, which I understand has recently been redeveloped, is an historic exception to this otherwise very consistent pattern, being located around 130 metres back from the road, and around 65 metres behind the rear garden line of the dwellings. In views from the dwellings and the private lane, it is however well screened by mature trees.

16. The appeal site forms part of a clear band of undeveloped land to the rear of Sandbed Lane, and is indicated by the Council to fall outside of any defined settlement boundary. The land falls away to the north and the long views in this direction show the site forming a continuous part of the open countryside. It therefore has a role in defining the edge of the built form, and contributes positively to the undulating rural landscape surrounding Sandbed Lane.

17. The appeal is made in outline with all matters reserved, and no illustrative plans are before me. However, the dwelling would be located at the higher end of the site, where it would form a stark insertion into the open paddock and the wider band of undeveloped land behind Sandbed Lane which would detract from the rural surroundings. I accept that the dwelling would not be 'isolated' in the language of the Framework, being adjacent to Highwood House and within sight of dwellings on Sandbed Lane. However, a dwelling in this position would fail to relate to the surrounding built form, being set significantly behind the linear development and standing in a conspicuous, detached position which would exacerbate its harmful impact. Whilst I appreciate the exact scale and design of the dwelling has not been proposed, and a bungalow is indicatively suggested by the appellant, a dwelling of any form in this location would run contrary to the prevailing pattern of development and the rural character of the immediate surroundings.

18. For these reasons, I conclude that the proposal would significantly harm the character and appearance of the area. There would be conflict with Policies LS3 and EN7 of the Local Plan which together require development proposals to reflect the principles of good design by respecting the character of the locality; and that the design of development is appropriate to the landscape character type within which it is proposed. The proposal would also conflict with the Framework's recognition of the intrinsic character and beauty of the countryside.

Other Considerations

19. The appellant points to a number of other nearby developments where it is argued that the Council has taken a different approach to development in the Green Belt. This includes the redeveloped Highwood House to the rear of the appeal site. However, beyond the decision notices, I am not furnished with full details of these planning permissions and therefore am not aware of the circumstances which led to these developments being granted. From the information I have, it appears in the cases of Highwood House and Foxfields that the developments replaced previous structures. At 101 Sandbed Lane, recent development appears to have been extensions to a dwelling originally built some 40 years ago. The case at 141 Sandbed Lane relates to a garden building at the rear of the site, which I saw is located to the far end of the paddock from the appeal site.

20. In each of these cases, there are many potential considerations, including whether any exceptions to inappropriate development applied, or whether permitted development rights have been, or could be, exercised. Without further details of the considerations made by Council officers, it is very difficult to draw comparisons between these other schemes and the present appeal in Green Belt matters, as each will have its own unique set of circumstances. I therefore afford limited weight to these other cases and I have considered this appeal on its own planning merits.

21. The appellant criticises the design of Highwood House, and the use of the rear part of the garden of No 141. The appellant also attests that the paddock has not been used for agricultural purposes for many years, and may be similar to No 141 in this respect. As set out above, I do not have sufficient details as to the backgrounds to these other developments to enable me to make comparisons with the appeal scheme. However, from the details I do have, these matters are not determinative of the present appeal, which first and foremost is to be assessed on the basis of its own impact on the Green Belt. Therefore, I afford these other considerations only limited weight.

22. The appellant speculates as to whether other approaches, such as gaining a lawful development certificate in respect of the use of the paddock, or describing the structure as an annex may make a planning permission more likely to be achieved. However, no such proposals are before me. Any such application must be made to the local planning authority in the first instance to be assessed on its merits. Nothing put to me in evidence suggests a viable fall-back position exists for the appellant at this point in time, and therefore I ascribe no weight to any potential alternative route to planning permission.

23. The appellant refers to unspecified 'relaxation of some regulations' by the Government to encourage self-build housing to address shortfalls in meeting housing targets. It is unclear to what the appellant is referring. I am not provided with details of the Council's housing position, but even if a shortfall were to exist, the proposal would make a very modest contribution to meeting housing targets. Moreover, I have no evidence to confirm that the proposal would constitute self-build housing as defined by the Self Build and Custom Housebuilding Act 2015. I afford this matter limited weight.

24. The appellant sets out her difficulties in respect of trying to secure a home. I empathise with her situation; however, these are ultimately private circumstances which do not outweigh the public harm identified in this case.

25. The Council did not raise objection to other matters, including highway safety, wildlife, neighbours' living conditions, flood risk and drainage. On the evidence before me, I have no reasons to reach different conclusions in these respects. However, these are neutral considerations which weigh neither for nor against the proposal.

Planning Balance and Conclusion

26. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition there are adverse impacts on openness, on the Green Belt purpose of safeguarding the countryside from encroachment and harm to the character and appearance of the area. Substantial weight should be 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.

27. As explained above I give only limited weight to each of the material considerations in support of the proposal and conclude that, taken together, they 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.

28. The Council acknowledges that certain policies most important for determining the application, including saved Policy EN2, are out-of-date. In this case, Paragraph 11(d)(i) of the Framework indicates that planning permission should be granted unless application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. Green Belt is one such area or asset and, given my findings above, the proposal would not amount to sustainable development and the presumption in favour does not therefore apply.

29. The proposal would therefore result in conflict with the development plan, taken as a whole. Other material considerations, in particular the Framework, do not indicate that permission should be forthcoming other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR