



Appeal Decision

Site Visit made on 16 September 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2021

Appeal Ref: APP/R3705/W/21/3275107

Land 185 metres North West of Rutters Hall, Kinwalsey Lane, Kinwalsey CV7 7HT

- 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 John Cotterill c/o Architecture by John Cotterill against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2020/0478 dated 7 September 2020, was refused by notice dated 16 April 2021.
 - The development proposed is the erection of a new detached dwelling house and detached garage.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The address in the banner heading above has been taken from the appeal form as this more accurately describes the location of the appeal site.
3. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given the opportunity to make any comments on the implications of the revised Framework to this appeal and I have taken the comments into account in my considerations.
4. On the evidence available to me I am content that the emerging Local Plan has reached an advanced stage in its preparation and therefore substantial weight can be attached to it for the purposes of the determination of this appeal.

Main Issues

5. As the site is within the Green Belt the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the relationship to the development strategy for the area; and
 - 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

Inappropriate development

6. The Framework at Paragraph 149 indicates that the construction of new buildings should be regarded as inappropriate in the Green Belt unless it falls within a number of exceptions as set out in the paragraph. The development would not meet any of the exceptions listed, nor those within Policy LP3 of the emerging draft Local Plan (2018) including modifications (July 2021) (DLP). The proposal would, therefore, be inappropriate development in the Green Belt. The main parties have come to the same conclusion. 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 of the Green Belt and purposes

7. The Framework states that "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." It has been established that openness has both a spatial and visual aspect.
8. In spatial terms, the footprint and massing of the development would reduce the Green Belt's openness. Visually, while the building has been designed to fit the site, it would result in the area being significantly more urbanised than the existing situation. The ground works proposed and the comings and goings associated with the development would reinforce the developed nature of the site. Despite the country roads, motorway and Rutters Hall nearby, the site itself is a large open field which is rural in character and the development would introduce a dwelling of notable proportions onto a site that, because of its character, is currently inconspicuous and undeveloped.
9. The development would be screened, in part, by existing vegetation on the site boundaries and by the motorway to the north. Nonetheless, some of this planting is fragmented, particularly on the southern boundary of the site, and is deciduous meaning that the development would not be screened all year. The boundary planting would be reinforced with hedging and shrubs and trees that bear berries or nuts. However, without a planting specification to suggest otherwise, I surmise that this planting would also be deciduous and modest in scale, limiting its mitigating effects on visual grounds.
10. The above factors lead me to conclude that the development would lead to significant harm to the openness of the Green Belt. Through that loss, there would be an intrusion into the countryside, conflicting with one of the five purposes of the Green Belt, set out in Paragraph 138 of the Framework. In accordance with the Framework, substantial weight must be given to this harm.

Development Strategy

11. Policy NW2 of the Core Strategy (2014) (CS) and Policy LP2 of the DLP set out the development strategy and settlement hierarchy through which new development is to be directed. The development would lie outside of a defined settlement and fall under category 5 of Policy NW2. The development is not necessary for agriculture, forestry or other uses that can be shown to require a

rural location, nor is the proposal for affordable housing. And so, the development conflicts with Policy NW2.

12. The development would also fall under category 5 of Policy LP2. There are several special circumstances listed to justify new isolated homes in the countryside.
13. On the matter of isolation, according to the Court of Appeal in *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610* the word "isolated" simply connotes a dwelling that is physically separate or remote from a settlement. In this case, the new dwelling would be and therefore would be an isolated home in the countryside. Turning to the special circumstances listed, the development would not meet rural workers' needs, relate to a heritage asset, re-use a redundant building, sub-divide an existing residential dwelling or relate to a rural exception site.
14. The remaining exception listed is a development of exceptional quality or innovative design when considered on its merits and with regard to other policies in the Plan. Paragraph 80 of the Framework explains what is meant by exceptional design quality, namely a development that is 'truly outstanding, reflecting the highest standards in architecture and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'
15. I commend the appellant for entertaining the notion of a building that brings site context and environmental sustainability to the fore. Measures including environmentally responsible materials, energy efficient technological solutions and habitat creation point to a sustainable building. The building's fenestration and orientation to respond to light, sunlight, shelter, privacy and views add to the development's environmental credentials. The building is also innovative in so far as technologies would create a building that is secure, private and future proofed against current and future pandemics.
16. However, the design is heavily influenced by the client's need for a large dwelling to accommodate multiple generations, with maximum security and with good access to the airport. Privacy and noise have also featured heavily in the design brief. This is not unreasonable, however, it does not speak of a building that places sustainability and rural context at its heart.
17. Measures including automated intelligent systems may be innovative in their own right but they do not combine with other innovative design and construction techniques to create a building that sets new standards for development in rural areas. And so I find that whilst the building is beautiful architecturally, it does not harmonise with its environment so that its energy requirements is reduced to the absolute minimum and so minimise expensive eco-technology.
18. The form and massing of the development creates a building that in three-dimensional terms would not appear unduly dominant. However, the building would not be inconspicuous or overly sensitive to its setting, owing to its lavish proportions and urban geometry. Whilst not in any way decrying the quality of the proposal as a piece of architecture, for the reasons given the development would not meet the high bar set by planning policy, that of a building being truly outstanding and significantly enhancing its immediate setting. I recognise

that good design is a key aspect of sustainable development but that presupposes that the use, of itself, is acceptable for that location.

19. Therefore, for these reasons, the proposal does not represent any of the categories of development permitted in the open countryside. The proposal is therefore contrary to Policy NW2 of the CS and Policy LP2 of the DLP.

Other considerations

20. The development would free up existing housing and provide the social benefit of pastoral care. However, I have no evidence before me of the houses that would be released to gauge to what extent this would help meet the Council's need for housing. Whilst multi-generational living is a social benefit it is not an innovative concept. I give the social benefits of the development limited weight.
21. Given the security requirements of the client, I question whether he and his family will travel to and support the services and facilities nearby. Being a development for one house, the benefit of the development to local employment is limited. The economic benefits, therefore, attract little positive weight.
22. The appellant suggests that the site is unsustainable for agriculture but it is not clear why the size of the site and its location make this so. The Council's landscape management strategy supports pasture and therefore, as the appellant suggests, the site could be used to graze horses. This matter carries no weight in favour of the appeal.
23. It is not clear how the measures to maximise the ecological value of the site enhance the heritage asset of the Ancient Arden landscape for this to attract positive weight. Nonetheless the ecological measures proposed are welcome, albeit there seems to be some doubt over the green roof proposed. The ecological benefits carry moderate weight.
24. There is no evidence before me of the search for alternative sites. I accept that it would be difficult to accommodate a building of the form and scale proposed within a more urban context, simply because of its size. However, that is not to say that a building that offers multi-generational living, is secure, accessible, environmentally sustainable and of high architectural merit could not be realised in an urban location; often the most challenging briefs culminate in the most innovative buildings. The appellant suggests that a plot of this size is needed for the dwelling to be fully accessible and to meet Lifetime Home Standards but no further details are given to explain why this is the case. This factor attracts limited beneficial weight.

Balance and Conclusion

25. 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 in the Green Belt and it would be contrary to one of the purposes of the Green Belt. I have also concluded that the proposal would be contrary to Policy NW2 of the CS and Policy LP2 of the DLP. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

26. I give moderate weight to the other considerations. 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

27. 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 despite this conflict. Therefore, the appeal is dismissed.

R Walmsley

INSPECTOR