
Appeal Decision

Site visit made on 2 March 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/K3415/W/21/3286827

Land adjacent to 29 Ashcroft Lane, Shenstone, Lichfield WS14 0EF

- 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 Mr Andy Johnson against the decision of Lichfield District Council.
 - The application Ref 21/00181/OUT, dated 27 January 2021, was refused by notice dated 06 August 2021.
 - The development proposed is outline application for the erection of a single dwelling including details of means of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline, with access to be determined at this stage, and scale, appearance, landscaping and layout to be reserved matters. I have therefore taken the layout shown in the submitted plans as indicative only, with the exception of the vehicular access.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it; and,
 - whether or not the location of the proposal would be consistent with the spatial strategy of the development plan; and,
 - If the proposal would be inappropriate development, would the harm by reason of inappropriateness, and any other harm, 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

4. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework outlines that the construction of new buildings, other than in connection with a limited number of specific exceptions, should be regarded as inappropriate in the Green Belt (paragraph 149). One of the exceptions to this is limited infilling in villages (paragraph 149e), and another is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on openness than the existing development (paragraph 149g). Inappropriate development according to the Framework is harmful to the Green Belt and should not be approved except in very special circumstances.
5. There is no definition of 'village' or 'limited infilling' within the Framework. The site is a gap of limited width within a ribbon of development located on Ashcroft Lane. Only a single dwelling is proposed, and it would be adjoined by existing dwellings to the north and south. As such, the proposal represents limited infilling within a ribbon of development.
6. The ribbon of development along Ashcroft Lane is washed over by the Green Belt and is predominantly surrounded by open countryside to the east and west. There are substantial views of, and from, Ashcroft Lane through to the wider surrounding countryside. This results in dwellings on Ashcroft Lane appearing as a discrete group of dwellings within the open countryside, rather than as part of the built-up area of Shenstone. I acknowledge that there is a continuous pavement from the site to the centre of Shenstone. Views along that route of the open countryside to the north of Lynn Lane, however, reinforces the perception that the built-up area of the village is located to the south of Lynn Lane and to the east of the railway line
7. The exclusion of Ashcroft Lane from the settlement boundary reflects its more rural character within the open countryside and Green Belt. Whilst the settlement boundary to the south of Lynn Lane extends significantly further west than Ashcroft Lane, this is to include an industrial estate. The industrial estate represents an abrupt change in character to that of Ashcroft Lane and the predominantly open countryside to the north of Lynn Lane. As such, whilst there is intervisibility between the industrial estate and development on Ashcroft Lane, the views through Ashcroft Lane to the surrounding open countryside means that the site appears distinct from the dense built-up form of the industrial estate.
8. As such, the appeal site is not within a village and the proposal would not accord with the exception to inappropriate development set out in Framework paragraph 149(e), or the similar provision within Policy NR2 of the Lichfield District Local Plan Strategy (2015) (LP). In reaching this view, I have had regard to the Court of Appeal case¹ referred to me by the appellant and acknowledge that the boundary of a village defined in a local plan may not be determinative for purposes of applying paragraph 149(e).

¹ Julian Wood v SSCLG and Gravesham Borough Council [2015]

Openness

9. The assessment of openness requires a consideration of both spatial and visual aspects. Whilst no details regarding scale and layout are before me, even if the proposed dwelling were to be small scale, it would still result in built form on land which is presently open. This would obscure and interrupt the open views across and through the site to the open countryside beyond. Consequently, there would be a harmful loss of both spatial and visual openness of the Green Belt. Whilst the loss would be small in the context of the Green Belt as a whole, the Framework is clear that substantial weight should be given to any harm to the Green Belt.

Conclusion on Inappropriate Development

10. The appellant contends that the site constitutes previously developed land (PDL) given that its last use was as garden land associated with no 29. The current occupier of no 29 disputes whether the site has ever been used as garden land associated with no 29. For the purposes of the Framework, residential gardens outside of built-up areas are included in the definition of PDL. Whilst I have found the site is outside of the built-up area of the village, given the opposing views as to the historic use of the site, I cannot be certain that the site can be regarded as PDL. Nevertheless, even if the site is PDL, given the proposal's greater impact on openness, it would not accord with the exception to inappropriate development set out in paragraph 149(g).
11. The proposal would, therefore, be inappropriate development in the Green Belt. Furthermore, the proposal would also fail to assist in safeguarding the countryside from encroachment, in conflict with the purposes of designating land inside the Green Belt.

Spatial Strategy

12. LP Policy CP1 of the Lichfield District Local Plan Strategy (2015) (LP) states that growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy. It goes on to advise that the important role of the Green Belt will be recognised and protected, with the majority of new development being channelled towards the most sustainable urban areas of Lichfield and Burntwood. LP Policy R1 states that, in the rural areas, approximately 24% of the district's local housing growth (a minimum of approx. 2,400 dwellings) will be provided within the Key Rural Settlements. Shenstone is categorised as a Key Rural Settlement within the LP Settlement Hierarchy and is one of the locations that LP Policy CP6 identifies as a focus for housing development. Policy CP6 states that the overall distribution of new homes will be guided by the Local Plan's Settlement Hierarchy, Key Diagrams and Strategic Development Allocation insets.
13. The site is, however, located outside of the settlement boundary of Shenstone as defined on the LP Policies Map. In rural areas such as the appeal site, residential development is only permitted by LP Policy CP6 subject to a limited number of criteria, none of which apply in this instance. There is no substantive evidence before me that LP Policies CP1, CP6 and R1 are inconsistent with the Framework. Indeed, they seek to primarily focus new developments within existing urban areas, managing patterns of growth, including through the use of defined settlement boundaries, so as to better coordinate housing growth

and service provision, whilst recognising the important role of rural areas and the Green Belt.

14. I acknowledge that the appeal site is within realistic walking and cycling distance of many facilities and services within the village, including the railway station, employment sites, churches, and public houses. The proposal, in this regard, accords with paragraph 105 of the Framework which states development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. I attach significant weight to the site's good accessibility links to services by sustainable transport modes and do not find conflict with LP Policies CP1, CP3, and R1 in this regard.
15. Nevertheless, the location of the proposal outside of the defined settlement boundary would not accord with the spatial strategy for the district as set out within Policies CP6, CP1 and R1. Furthermore, given the site is located outside of the built-up area of Shenstone, policy H2 of the Shenstone Neighbourhood Plan (2016) (SNP) does not support the proposal. Determining appeals on a 'one-off' basis and disregarding the development plan would undermine the plan-led system and cause a loss of confidence in it. As such, the proposal would also conflict with the Framework insofar as it requires the planning system to be genuinely plan-led.
16. It is not unusual for some tension to be found between and within the policies of a development plan when applied to a specific proposal. In relation to this main issue, the identified policy conflicts outweigh the elements of policy support, and overall, the proposal would not be consistent with the spatial strategy of the development plan.

Other considerations

17. The Framework² is clear that the Government's objective is to significantly boost the supply of homes to meet peoples' housing needs. However, given only a single dwelling is proposed, the benefit of increased housing supply carries only limited weight. As previously noted, significant weight is attached to the site's good accessibility links to services and facilities by sustainable transport modes
18. The proposal would also result in some economic and social benefits, including through its construction and as a result of an increase in spending, and patronage of facilities, in the local area. However, given the scale of Shenstone, a single additional dwelling would only make a very limited contribution to the vitality of the village. As such, these benefits attract only limited weight.
19. The Framework is clear that the use of PDL is encouraged subject to suitable opportunities existing. Suitable opportunities to develop the site are significantly constrained by the various identified policy conflicts. As such, even if the site is PDL, only very limited weight would be afforded to this consideration. The matter is not, therefore, determinative in my decision and it is not necessary for me to reach a firm view as to whether the site is PDL.

² Framework Paragraph 60

Green Belt Balance

20. The Framework states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. The dwelling would be inappropriate development which is, by definition, harmful. There would be harm to the openness of the Green Belt and conflict with one of the purposes of including land within the Green Belt given the proposal fails to assist in safeguarding the countryside from encroachment. These matters attract substantial weight against the development. Having considered all matters in support of the development, they collectively would not clearly outweigh the identified harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the proposal would be contrary to LP Policies CP1 and NR2, Policy GB1 of the SNP, and contrary to the Framework, including paragraphs 137, 147, and 149. Taken together, these policies, amongst other things, seek to protect the essential characteristics of the Green Belt.

Planning Balance and Conclusion

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. Substantial weight is given to the identified conflicts with development plan policies relating to the Green Belt and relating to the district's spatial strategy. The weight given to other considerations in favour of the proposal noted above would not outweigh that identified harm.
23. The proposal would, therefore, conflict with the development plan, when read as a whole, and there are no other considerations, including the Framework, that outweigh this identified conflict.
24. For the reasons given above, the appeal is dismissed.

S D Castle

INSPECTOR