



Appeal Decision

Site visit made on 6 May 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2022

Appeal Ref: APP/V3120/W/21/3289595

Green Lane/Brumcombe Lane, Green Lane, Bayworth, OX13 6QT

- 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 Daksha Vadher against the decision of Vale of White Horse District Council.
 - The application Ref P21/V2205/FUL, dated 26 July 2021, was refused by notice dated 15 October 2021.
 - The development proposed is described as 'demolition of existing garage block and erection of new 5-bedroom dwelling with associated parking, bike storage, bin storage, and garden'.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing garage block and erection of new 5-bedroom dwelling with associated parking, bike storage, bin storage, and garden, at Green Lane/Brumcombe Lane, Green Lane, Bayworth, OX13 6QT in accordance with the terms of the application, Ref P21/V2205/FUL, dated 26 July 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are (i) whether or not the proposal would be inappropriate development in the Green Belt; (ii) the effect upon the openness of the Green Belt; (iii) the effect of the development upon highway safety with particular regard to parking demand, and (iv) if the development is inappropriate, 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 development.

Reasons

Whether the proposal is inappropriate development in Green Belt

3. Core Policy 13 (CP13) of the Vale of White Horse District Council Local Plan 2031 Part 1 'Strategic Sites and Policies' (adopted 2016) (the Local Plan Part 1) sets out the Council's policy to protect the openness and permeance of the Oxford Green Belt. The policy includes a list of specific villages in the authority area whereby limited infilling within the Green Belt is deemed as not inappropriate development. The policy does not identify Bayworth as one such village. However, the Council accepts that Policy CP13 is not fully in accordance with the updated National Planning Policy Framework (2021) (the Framework). This is due to CP13 only identifying limited infilling as not inappropriate development within certain villages.

4. Whilst the development plan remains the starting point for the determination of the appeal, the Framework is an important material consideration. Paragraph 138 of the Framework outlines the fundamental aim of Green Belt policy, which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at Paragraph 149 establishes that the construction of new buildings in the Green Belt is inappropriate, subject to some exceptions. One such exception is limited infilling in villages (Paragraph 149e).
5. The Council contends that the appeal site is not located within a village. This is largely based on Bayworth having a lack of facilities, its scale, and having no historic 'core'.
6. There is no definition of 'village' or 'limited infilling' within the Framework. The Oxford English Dictionary defines a village as '*a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area*'. It defines a hamlet as '*a small settlement, generally one smaller than a village, and strictly (in Britain) one without a church*'.
7. Bayworth contains around 50 dwellings. These are primarily located across three principal roads that converge upon an area of public open space that is loosely located near the centre of Bayworth. This quantum of housing, and likely associated number of residents, significantly exceeds the level that I would expect of a small settlement such as a hamlet. There is also a community chapel that doubles up to provide local services, such as a barbers and event hire. Additionally, I observed that two notice boards within Bayworth that provided residents with local news, including from the Bayworth Resident's Association and wider Parish Council updates.
8. The above factors together combine, in my judgement, to provide Bayworth with a sense of community and scale of a village. I recognise that Bayworth does not have the range of facilities that may be desirable to have in a village, such as, a shop, village hall, school, or public house. However, this also applies to many village locations. I also acknowledge that Bayworth does not have a defined historic core. Nevertheless, these factors are not deemed decisive as to what would constitute a village. I therefore deem Bayworth to be a village for the purposes of paragraph 149e) of the Framework.
9. Furthermore, the appeal site is located within a built up, residential frontage on the corner of Green Lane and Brumcombe Lane. Blocks of terraced properties on Brumcombe lane lie to its east. Further residential development is located around the site to the north and west. The development would involve only a single dwelling and replace an existing garage structure on the site. It would therefore also represent limited infilling.
10. For the above reasons, I conclude that the proposal would meet the relevant exception at paragraph 149e) of the Framework in that it would constitute limited infilling in a village.
11. In terms of the effect on openness, I have had regard to the Lea Valley Regional Park Judgement¹. This identifies that, where development is considered to be not inappropriate in the Green Belt, such development is not to be regarded as harmful to either the openness of the Green Belt or the

¹ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404.

purposes of including land within the Green Belt. Accordingly, it is not necessary to assess the effect of the development on the openness of the Green Belt any further.

12. In conclusion on this first main issue, the proposal would be contrary to Policy CP13 of the Local Plan Part 1. This is because the development is not located within one of the specified villages where limited infilling is considered not to be inappropriate development in the Green Belt. However, I give limited weight to the conflict with the policy due to it being inconsistent with the Framework. Therefore, on the issue of the Green Belt, the Framework is a material consideration that would justify a decision other than in accordance with the Council's development plan. Additionally, notwithstanding the policy's conflict with the Framework, the appeal scheme is in general accordance with the aims of Policy CP13, in that it would not cause urban sprawl and would preserve the rural setting of the city of Oxford.

Highway Safety

13. Bayworth is rural in nature and its highway network primarily consists of narrow road carriageways, bound by grass verges, with a lack of footways. However, most properties are served by private driveways and during my site visit it was apparent that these were actively used for parking of vehicles. In addition, there is also an informal area of parking with capacity for approximately 10 vehicles located on Green Lane, opposite the site.
14. The few instances that I observed, where cars were parked on the public highway, were in locations where the nature of the street had capacity to allow this without causing obstructions or nuisance. Most notably, along Quarry Road whereby the highway tends to be slightly wider, benefits from separate footways and has good visibility. Even then, the number of vehicles parked on the road was limited, with most instead parked on driveways.
15. While only a snapshot in time, the general lack of vehicles parked on-street, together with the very limited levels of vehicle traffic through the village, suggests that the level of parking demand within Bayworth is not problematic.
16. The appeal scheme would result in the loss of a four-bay garage parking facility. The appellant highlights that the site has not been used for the parking of vehicles for an extended period. Whilst specific evidence to corroborate this has not been provided it was apparent at the time of my site visit that the site was not being used for parking of motor vehicles. It also appeared as though the site had not been used in such manner for some time. The garage building itself also did not appear an attractive proposition for parking of vehicles due to the size of its bays and its general condition. As such, I am not convinced that the loss of the existing garage would result in an increase in the number of vehicles that would be parked within the local vicinity.
17. Even if the development were to result in displacement of vehicles, the numbers would be limited, while there would remain sufficient suitable locations for on-street parking in the near vicinity of the site. As such, I do not consider that the loss of the existing garage structure would give rise to harmful impacts on highway safety.
18. Only two parking spaces are indicated on the plans, as opposed to the Council's stated requirement of three spaces for the size of dwelling proposed.

Nevertheless, there would remain sufficient space on the site for a third vehicle. The highway officer's comments on the original application also indicated that it is reasonable for residents to have to move a vehicle to allow another to egress from the site. The appropriate provision of on-site parking could therefore be secured via condition.

19. Overall, the development would not result in harmful impacts on highway safety. It therefore does not conflict with Core Policies CP33 or CP37 of the Vale of White Horse District Council Local Plan Part 2 'Detailed Policies and Additional Sites' (adopted 2019). The policies, amongst other matters, seek to minimise the impacts of new development on the strategic and local road network, as well as provide safe and convenient ease of movement for all users.

Other Matters

20. The main parties have raised comments that indicate alternative views on whether, or not, the appeal scheme should be considered inappropriate development in the Green Belt under Paragraph 149g) of the Framework. However, as I have found the appeal scheme would not be inappropriate development in the Green Belt, by virtue of it being limited infilling within a village, I have not considered these matters further.
21. Concerns have been raised by a neighbouring party regarding potential overlooking from the development, as well as the loss of sunlight and views. The Council did not deem that the proposed development would have a harmful impact on the living conditions of neighbouring occupiers, that would warrant refusal on these grounds. From my own on-site observations, I concur with the Council's findings.
22. Matters relating to the responsibility of the boundary between properties and a drainage ditch are legal issues between the relevant parties and are not material to the determination of this appeal.
23. The highways authority also raised a range of further matters including in relation to visibility splays, on-site vehicle turning space, details of the entrance gate(s) and the precise arrangements of cycle and parking spaces. These matters did not form part of the Council's reason for refusal. However, where necessary, they can be suitably addressed via the use of relevant planning conditions.

Conditions

24. The Council has provided draft conditions, in the event that the appeal was allowed. I have assessed these against the relevant tests set out in the Framework and I have amended the wording and re-ordered accordingly, where I consider this necessary.
25. As well as the standard time condition, a condition specifying the approved plans and documents is necessary to provide clarity and in the interest of certainty.
26. A condition relating to tree and hedge protection is necessary to be complied with before any site works commence, in order to protect vegetation at the site and in the interests of visual amenity. Similarly, a pre-commencement

condition relating to landscaping details is also required in the interests of the character and appearance of the development.

27. A condition requiring details of a surface water drainage strategy is necessary to ensure the development does not increase flood risk on or off site.
28. The removal of permitted development rights in relation to the enlargement of the proposed dwelling, additions or other alterations to its roof, or the erection of a porch is deemed reasonable and necessary. This is to safeguard the living conditions of neighbouring residents and in the interests of the character and appearance of the development.
29. A condition requiring that details of external materials, including samples, are to be approved prior to their use is reasonable and necessary in the interest of the appearance of the development. However, I have re-worded the Council's conditions relating to materials into a single condition for clarity, and because it was unnecessary for details of materials to be required pre-commencement of development.
30. Conditions relating to visibility splays, parking and turning spaces as well as bicycle storage are necessary in the interests of highways safety and sustainable transport.
31. An additional condition, requiring the approval of the details of the entrance gate(s) has also been added. This is necessary in the interests of highway safety.

Conclusion

32. For the above reasons, having regard to the development plan as a whole, the Framework, and all other material considerations, the appeal is allowed.

Lewis Condé

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 approved shall be carried out in accordance with the details shown on the following approved plans:
 - Block Plan Proposed drwgn 100
 - Elevation Floor & Section Plans Proposed drwgn 102
 - Elevations Street Scene Proposed drwgn 103
 - Site Plan Proposed drwgn 101except as controlled or modified by conditions of this permission.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) A full surface water drainage scheme in accordance with the surface water drainage hierarchy as set out in Part H of the Building Regulations, including details of the size, position and construction of drainage works, shall be submitted to, and approved in writing by, the Local Planning Authority. The drainage scheme shall be designed to accommodate a 1 in 100 year storm + 40% CC and shall be implemented in accordance with the approved details prior to the occupation of the development hereby approved.
- 6) Prior to their use in the development hereby permitted, details of all materials, including samples, that are to be used externally in the construction shall be submitted to and approved in writing by the Local Planning Authority. The development shall be built using only the approved materials.
- 7) Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), there shall be no extension to any of the dwellings hereby permitted without the prior grant of planning permission.
- 8) Prior to the use of the new vehicular access, visibility splays shall be provided in both directions in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. Such splays shall be designed to ensure there is no obstruction to vision above 0.9 metre in height relative to the centre line of the

adjacent carriageway over the whole of each visibility splay area. Thereafter, the visibility splays shall be permanently maintained free from obstruction to vision.

- 9) Prior to the occupation of the new development, car parking spaces shall be constructed, surfaced, drained, and marked out on the site in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The parking spaces shall be constructed to prevent surface water discharging onto the highway. Thereafter, the spaces shall be kept permanently free of any obstruction to such use.
- 10) Prior to the occupation of the new development, a turning space to enable motor vehicles to enter the site, turn around and leave in a forward direction shall be constructed in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The turning space shall be constructed to prevent surface water discharging onto the highway. Thereafter, the turning space shall be kept permanently free of any obstruction to such use.
- 11) Prior to the occupation of the new development, provision for parking bicycles on the site shall be laid out within the site in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the bicycle parking shall be kept available for such use.
- 12) Details of any entrance gate(s) shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Entrance gate(s) installed at the site shall only be constructed in accordance with the approved plans.

End of Conditions