
Appeal Decision

Site visit made on 21 June 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Appeal Ref: APP/P1805/W/21/3281435

Land adjacent to Lombardy House, Bittell Farm Road B45 8BP

- 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 T. Nadin (JWS Cotswold Builders Ltd) against the decision of Bromsgrove District Council.
 - The application Ref 21/00616/OUT, dated 14 April 2021, was refused by notice dated 20 August 2021.
 - The development proposed is for a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application the subject of this appeal was submitted in outline with all matters reserved except for access for the construction of a single dwelling. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. The proposed new vehicular access to the site is shown on the submitted location and block plans. I note that the footprint/location of the proposed dwelling is also shown on those plans, however the precise form and layout of the proposed dwelling would be determined at reserved matters stage were the appeal allowed. I have therefore determined the appeal on this basis.
3. The appellant's Statement of Case refers to the National Planning Policy Framework (Framework) (2019). This version of the Framework has been superseded by the Framework (July 2021). The relevant policy of the Framework (2021) was referred to in the Council's decision notice, and consequently no parties have been prejudiced by me having regard to the Framework (2021) in reaching my decision.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, and the effect on the openness of the Green Belt.
 - Whether the site is sustainably located.
 - The effect of the proposal on the character and appearance of the area.

- Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development, Openness of the Green Belt

5. The appeal scheme seeks outline planning permission to erect a dwelling on a parcel of grazing land off Bittell Farm Road. The appeal site is in the Green Belt and outside the built-up boundary of Hopwood.
6. The appeal site is not isolated from other dwellings as it is located within the vicinity of a small number of existing dwellings. However, the site forms part of a continuous swathe of open countryside between the edge of the existing dwellings and the Waterside Orchard mobile home park.
7. The Framework explains that the erection of new buildings in the Green Belt should be regarded as inappropriate development. Paragraph 149 includes a closed list of exceptions.
8. Policy BDP4 of the Bromsgrove District Plan (2017) (BDP) sets out that the development of new buildings in the Green Belt is considered inappropriate, except in specific circumstances. The circumstances are broadly consistent with those set out in the Framework.
9. The proposal would not fall within any of the exceptions within paragraph 149 of the Framework or Policy BDP4 of the BDP, which is not disputed by the Council and appellant. The proposal would therefore result in inappropriate development in the Green Belt.
10. Paragraph 137 of the Framework identifies the essential characteristics of the Green Belt as being its openness and permanence. Openness in terms of Green Belt has a spatial and visual aspect.
11. Although the appeal site is adjacent to an existing dwelling, the site is not adjoined by other built form and extends into open countryside beyond. Whilst there is some built form located to the south of the site, this is segregated from the appeal site by the road. The proposal would be viewed in the context of the adjacent dwelling, Lombardy House, which is visually separate and stood apart from the nearby dwellings and commercial buildings. Therefore, the appeal site's limited enclosure to existing built form gives it a more open setting.
12. In addition, due to the flat, open nature of the site and the low-lying hedgerow boundaries, the proposal, whether single storey or two-storey, would appear visually prominent when viewed from Bittell Farm Road. Therefore, the built form of the proposal would diminish the contribution the site makes to the openness of the Green Belt in spatial and visual terms.
13. With respect to the purposes of the Green Belt, there would be some encroachment into the countryside as the proposal would occupy a space where there was previously no built form. Furthermore, the proposal would reduce the clear separation that exists between Lombardy House and the mobile home park that is visibly stood apart. As such, the proposal would be in conflict with this Green Belt purpose.

14. I have had regard to the appellant's suggestion that the hedgerow boundary provides a strong defensible barrier. However, the hedgerow is not protected and although it is not currently proposed to remove it, it is not necessarily a permanent feature in the landscape as it could die off, be cut back, or be removed. In those circumstances the proposed dwelling would be much more prominent, and in any case, even with the hedge in place, this would still not mitigate the spatial encroachment into the countryside.
15. Therefore, the proposal would be inappropriate development in the Green Belt, which paragraph 147 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, for the reasons set out above, there would be moderate harm to the openness of the Green Belt, which would be at odds with the fundamental aim of Green Belt policy. As a result, the proposal conflicts with the Framework, and Policies BDP1 and BDP4 of the BDP, which, amongst other things, seek to protect the Green Belt in line with national policy.

Sustainability of Location

16. The nearest village to the appeal site is Hopwood, which is approximately 600m away. To access services and facilities in Hopwood, the occupants of the proposed dwelling would have to walk/cycle along the roads or canal towpath. Along the road, the occupants would have to share the carriageway with vehicles, as the nearest separate footpath is located approximately 290m from the appeal site and there are no cycle lanes or street lighting. As the footpaths and canal towpaths are unlit, these routes would not be suitable for use outside of daylight hours. In addition, roads within the vicinity of the appeal site have a national speed limit, which means vehicles are likely to be travelling at fast speeds. Such routes would be unsuitable for walking and cycling and for children's pushchairs, wheelchair users or people with limited mobility.
17. Whilst bus services operate in the area, the bus stop closest to the appeal site has a limited bus service. In addition, the lack of footpaths from the appeal site to access the bus stops, combined with the absence of lighting, is likely to deter occupants from using the bus services. Similarly, the unlit canal towpath would deter people from using this route to access Alvechurch train station during hours of darkness.
18. As a result, essential services, public transport, and job opportunities would not be readily accessible from the appeal site. Occupants of the appeal site would therefore be largely reliant on private vehicles to access essential services, facilities and job opportunities.
19. I have had regard to the Manual for Streets, p.45, paragraph 4.4.1. However, for the reasons above, the proposed development would not have a safe pedestrian route to the bus stops, or to the local services, facilities, or job opportunities in Hopwood.
20. The appellant has referred to planning permission 20/00361/FUL for the erection of two dwellings on Ash Lane in Hopwood, which was considered to be in a sustainable location within a built-up area. Unlike the appeal site, the permission was on a site that is more closely connected to Hopwood village and not located on a national speed limit section of road where vehicles are more likely to be moving faster. The appellant also refers to planning permission 21/01008/OUT for the development of 8 dwellings. I do not have the full

circumstances of the case before me. However, again unlike the appeal site, the permission was on a site that was considered to be in a sustainable location with a bus service passing the front of the site, and a nearby public house and a convenience store. In any event, I have determined the appeal on its own merits.

21. For the above reasons, the proposal would not be a sustainable location for a dwelling and as such, in respect of this main issue, would conflict with Policies BDP1 and BDP16 of the BDP, and Policy H4 of the Alvechurch Parish Neighbourhood Plan (2019) (APNP). Collectively, these policies, amongst other things, seek to reduce the need to travel by car by ensuring good accessibility to services and facilities. In addition, the proposal would conflict with the Framework, in particular paragraphs 8, 110 and 112, which promotes accessibility and sustainable transport modes for new development and gives priority first to pedestrian and cycle movements.

Character and Appearance

22. The appeal site is an undeveloped area of grazing land that is bounded by mature trees and hedgerows. The openness of the site makes a positive contribution to the rural character and appearance of the area.
23. The proposal would introduce a dwelling into this countryside location. Although adjacent to Lombardy House, this existing dwelling is spatially separated from built form for the reasons given above. Regardless of the site layout and positioning of the proposed dwelling, the proposal would extend the built form by urbanising the current rural appearance of the site. The proposed dwelling, hardstanding surfaces, and garden paraphernalia that would likely be associated with the proposal (such as garden furniture, children's play equipment, parked cars) would result in a domestic appearance that would severely diminish the rural qualities of the site and its surrounding. Although this would be constrained within the site boundaries, its visual effect would not complement the surrounding rural landscape and would erode the undeveloped qualities of the site.
24. I acknowledge that the layout/position of the proposed dwelling is reserved and that landscape planting could be designed to provide some degree of screening. The proposed dwelling would nevertheless still be likely to be visible from the surrounding area, regardless of its scale and massing, particularly when any deciduous trees/vegetation are not in leaf during winter months. Such planting could also not be guaranteed to survive or be maintained in the longer term.
25. I have had regard to the appellant's suggestion of controlling domestic paraphernalia by enforcement action. This would fail to accord with paragraph 56 of the Framework, with particular regard to not being enforceable and reasonable. Furthermore, I have considered imposing a condition to remove permitted development rights for garden structures, which would restrict such development were planning permission to be granted. However, this would not overcome the harm identified relating to the effect of the proposed development generally as referred to above.
26. I note the appellant's suggestion that the level of harm caused by the introduction of a large agricultural building would be significantly higher than a low-rise dormer bungalow. However, such a proposal for an agricultural

building is not before me, and neither have I received any clear indication of any intent to build one on this site. In any event, the nature of an agricultural building in this rural context is likely to be different to that relating to the proposed new dwelling.

27. For the reasons above, the proposal would have a moderate harmful effect on the character and appearance of the area. As such, it would conflict with Policy BDP19 of the BDP, and Policy HDNE2 of the APNP, together with the Council's High Quality Design SPD (2019). Collectively, these policies and SPD seek to ensure, amongst other things, that new development respects and enhances the character and distinctiveness of the local area in which it is proposed. It would also fail to accord with the Framework, in particular, where it provides that planning decisions should ensure developments are sympathetic to local character (para 130).

Other Considerations

28. The proposal is intended to be a self-build dwelling in which the appellant will reside. Paragraph 62 of the Framework supports self-build development and I note that the Council do not have a development plan policy that relates specifically to custom and self-build. Although the appellant is not on the district's self-build and custom house building register, I have no reason to doubt their intentions. However, since there is no mechanism before me to restrict the appeal site as a self-build dwelling, I attach limited weight to this matter. I also note that the Council has provided evidence to show the progress they have made in meeting the specified needs set out in the Self Build Register.
29. The proposal would make a contribution to the housing supply, albeit a very limited one to which I therefore attach limited weight.
30. It is explained that the proposed dwelling is intended for the appellant and their family, to enable them to stay in the local area in which they have a local connection. Living at the appeal site would also reduce their travel time to work. Whilst acknowledging such intentions, they amount to personal benefits which in the context of the wider planning considerations relating to this appeal, attract only limited weight.
31. The appellant argues that the Council is in breach of The Equalities Act 2010 due to the Council not providing sufficient permissions for self-build and custom build plots. Taking these concerns into account, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. I have also had regard to rights conveyed within the Human Rights Act. Whilst I sympathise with the appellant's desire to develop a self-build dwelling for their personal needs, the dwelling would be there in perpetuity with occupancy uncontrolled. Therefore, whilst I acknowledge the personal circumstances of the appellant, I attach only limited weight to this matter.
32. There would be short term economic benefits resulting from the construction stage, along with longer term economic and social benefits from the use of local shops and services by the occupants. However, these would be likely to amount to small benefits relating to just a single dwelling and therefore attract limited weight.

Other Matters

33. The appeal site contains areas of earthwork ridge and furrow, which the Council considers to be a non-designated heritage asset of local archaeological interest. Although this would be damaged/partially destroyed by the proposal, the Council has not raised objection to this as the asset is of limited extent and quality. On the evidence before me, I have no substantive basis to consider differently to the Council.
34. The appeal site is within the vicinity of three listed buildings; Granelli dwellinghouse, Canal bridge (Lea End Lane), and Lea End farmhouse. Based on the evidence before me and the observations I made during my site visit, I find that the proposal would have a neutral effect on the significance of the listed buildings and would preserve their setting due to their separation distance from the appeal site. However, this is a neutral effect and does not weigh in favour of the proposal.
35. The submissions have included reference to other appeal cases where development has been permitted in the Green Belt (APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926). However, these appeal decisions are not before me. I do not know the planning circumstances that led to these approvals or their specific relationship with the Green Belt. In any event, I have determined the appeal on its own merits.

Planning Balance

36. The proposal constitutes inappropriate development in the Green Belt and would cause moderate harm to the openness of the Green Belt. In accordance with paragraph 148 of the Framework, I therefore ascribe substantial weight to these matters. In addition, moderate harm has also been identified to the character and appearance of the area and I have found that the site would not be a sustainable location for a dwelling.
37. As set out above, other considerations put forward in support of the proposal attract limited weight. Therefore, I find that the other considerations in this case do not clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and the other harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would not therefore accord with the Green Belt aims of Policies BDP1, BDP4 and BDP15 of the BDP, or the Framework, as set out above. In addition, the proposal would conflict with Policy H1 of the APNP (2019), which amongst other things, seeks to protect the Green Belt from inappropriate development.
38. The lack of a 5-year housing land supply means that the policies which are most important for determining the proposal are out-of-date in accordance with paragraph 11d) of the Framework. However, part i. of paragraph 11d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As I have explained, there would be harm to the Green Belt that would not be clearly outweighed. This provides a clear reason for refusing the development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development in this instance.

Conclusion

39. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

Helen Smith

INSPECTOR