



Appeal Decision

Site visit made on 23 August 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2022

Appeal Ref: APP/R1845/W/22/3290643

Railway Corner, Stanklyn Lane, Summerfield, Kidderminster, Worcester DY10 4HP

- 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 Paul Carpenter against the decision of Wyre Forest District Council.
 - The application Ref 21/0608/PIP, dated 14 June 2021, was refused by notice dated 20 July 2021.
 - The development proposed is demolition of existing buildings and redevelopment to create 1-3 residential units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. The Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. The Wyre Forest Core Strategy (2010) and the Site Allocations and Policies Local Plan (2013) referred to by the Council in its decision notice have been superseded by policies in the Wyre Forest District Local Plan (2022) (LP) which has been adopted since the appeal was submitted. Both parties have commented upon this change in policy and thus neither party has been prejudiced by this change.
5. I note that reference has been made to an enforcement investigation relating to the appeal site. However, this is not a matter which is before me as part of this appeal, and it has not influenced my decision.

Main Issues

6. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- Whether the appeal site is an appropriate location for new housing having regard to the development plan, relevant national planning policies and accessibility to services and facilities;
- The risk of flooding; and
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

7. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for a number of specified exceptions.
8. The appellant contends that the development falls within the provisions of two such exceptions. One being the limited infilling of a village. The second is the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
9. LP Policy DM.22 echoes paragraphs 149 and 150 of the Framework, in respect of the approach towards development in the Green Belt. Policy SA.DPL sets out a number of criteria for windfall proposals on previously developed land in the Green Belt including in relation to height, materials and landscaping.
10. The appeal site was formerly a car park associated with a clubhouse that has now been converted into flats. At the time of the site visit, I observed it being occupied by a vehicle related use. The site contained extensive hardstanding, temporary structures and miscellaneous items including tyres and dismantled vehicles but otherwise was largely open and free from development.
11. Notwithstanding the presence of the neighbouring development, the site is not a small gap located within an otherwise uninterrupted built-up frontage. Nor would it integrate into an established street scene due to its location on the edge of the built form. Consequently, in my view, it does not constitute limited infill in a village.
12. Turning now to the second exception, I acknowledge that as a former car park it falls within the definition of 'previously developed land'. I also note that a permission in principle establishes a range of dwellings to be built rather than a finite number. However, the proposed development of up to 3 dwellings would introduce considerable built form in the area and more than likely would

include an access road, parking areas, boundary treatments and associated domestic paraphernalia. As such, it would have a significant greater impact on openness.

13. Consequently, the proposed development constitutes inappropriate development as set out in paragraphs 149 and 150 of the Framework. It would also conflict with policy DM.22 of the LP.

The effect on openness

14. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
15. Notwithstanding the height proposed and the use of sympathetic materials the proposed development comprising dwellings and the associated infrastructure and domestic paraphernalia would have a substantial impact on openness in both visual and spatial terms. Whilst the railway embankment and existing and proposed landscaping would provide some screening in visual terms it would still result in substantial harm in spatial terms.
16. As such, I find that there would be a loss of openness of the Green Belt and this harm would be substantial contrary to the aims and objectives of the Framework.

Appropriate location

17. The site lies adjacent to residential development but nonetheless it is located beyond the settlement boundary of Summerfield. The settlement is largely located to the eastern side of Worcester Road. It has few services and facilities limited to a pub, hair salon, tattoo studio and a daytime bus service for most of the week.
18. The nearest settlement with services and facilities is Kidderminster a few kilometres away; and whilst connected by a footpath, residents are unlikely to use this route on a regular basis due to the overall distance and as a large section of it is unlit. But the option is available, nevertheless.
19. There is a bus stop located on Worcester Road with a service into Kidderminster. The site is connected to Worcester Road by a footpath and future occupiers would have to walk along it for a short distance and cross the road to access the bus stop. Given a footpath connects the two and is a legible route I am not persuaded that future occupiers would be deterred from using the bus service, despite the overall distance.
20. As such, I find that the location of the proposed development and the accessibility to services and facilities would not be unacceptable. Future occupants would not be solely reliant on private motor vehicles as there is access to alternative modes of transport such as the bus service and the footpath leading to Kidderminster.
21. Despite the above, as the development would be located beyond the settlement boundary and in the absence of evidence to demonstrate it meets a local need it would not be an appropriate location for new housing contrary to

Policy SP.11. This policy supports residential development to meet specific local needs within designated rural settlements.

22. The appellant contends that the type of housing being sought should be left until the technical details consent stage. However, the scope of a permission in principle includes the location of development. Taking this into account and that policies in the LP seek to direct development to appropriate locations, reflecting local needs, I am satisfied that such a matter are to be considered at this stage.
23. Whilst there is a need for a range of homes across the District, I have not been made aware of any pressing housing need that would justify a different overall conclusion in relation to this matter.

Flood risk

24. The North Worcestershire Water Management Officer advises that the site is at high risk of surface water flooding due to the neighbouring railway embankment acting as a dam for excess water.
25. Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk.
26. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it meets a number of criteria.
27. Despite the appellant's comments modelling and flood risk is a technical field and one that is increasingly important as the effects of climate change become more apparent. For this reason, I give significant weight to the comments made by the North Worcestershire Water Management Officer. In my view, this is a matter that cannot be addressed through the imposition of conditions.
28. In the absence of any evidence to demonstrate that the site is not susceptible to flooding or that any flood risk could be appropriately managed, I cannot conclude the proposal represents an acceptable form of development having regard to its location.
29. Thus, the proposal fails to accord with LP Policies SP.31 and SP.32 which, amongst other things, seeks to steer new development to areas with the lowest probability of flooding and to minimise the impacts of and from all forms of flooding.

Other Matters

30. I acknowledge that the proposal would not conflict with the purposes of the Green Belt, as set out in paragraph 138 of the Framework. However, this is neutral in the overall planning balance as there would be no additional harm to that already identified.
31. The appellant has commented that the development would not result in harm to the open countryside and would be designed to be sympathetic to the area.

The absence of harm in relation to these issues, counts neither for nor against the proposal, and does not alter the harm I have identified.

32. I note the site has been promoted through the new Local Plan. However, the Framework is clear that Green Belt boundaries should only be altered through the Local Plan process. It is not within the scope of a Section 78 appeal to consider such matters. I therefore afford this matter negligible weight in the overall planning balance.
33. The appellant has made reference to a permission in principle application which he considers relevant. However, based on the limited information presented I am not persuaded it is comparable to the scheme before me. In any event, every appeal must be considered on its own merits as I have done. It does not lead me to reach a different conclusion in respect of the appeal.

Balancing Exercise

34. In line with the Framework the proposal would be inappropriate development in the Green Belt. It would also result in the loss of openness. I attach substantial weight to this harm, as required by paragraph 148 of the Framework. I have also found harm with regard to the location of the development and flood risk.
35. The other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

36. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR