



Appeal Decision

Site visit made on 13 September 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022

Appeal Ref: APP/T3725/W/22/3294507

Land Adjacent The Haven, Rising Lane, Baddesley Clinton

- 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 Shaun Hussey of Kingswood Homes against the decision of Warwick District Council.
 - The application Ref W/21/0834, dated 29 April 2021, was refused by notice dated 11 November 2021.
 - The development proposed is erection of two new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address from the Appeal Form, but at my site visit I saw that the property described as 'The Haven' is called Oakhaven.

Main Issues

3. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area and
 - If the proposal is inappropriate, 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

Inappropriate Development in the Green Belt

4. The site lies within the West Midlands Green Belt. Paragraph 149 of the Framework sets out the categories of development that are not inappropriate in the Green Belt. In particular, new buildings are inappropriate unless, amongst other things, they represent limited infilling in villages.

5. Policy H11 of the Warwick District Local Plan adopted September 2017 (WDLP) sets out the circumstances where limited infill housing is acceptable, within a Limited Infill Village (LIV) such as Baddesley Clinton. These include criteria (b) where the proposal must comprise the infilling of a small gap fronting the public highway between an otherwise largely uninterrupted built-up frontage, which is visible as part of the street scene. Policy H11 from the WDLP is consistent with national Green Belt policy contained in the Framework.
6. There is no dispute that the site, on a spur off Rising Lane, is within a village. However, 'small gap' is not defined in the Policy and is therefore a matter for planning judgement. The plot widths of the proposal may not be dissimilar to those of existing properties off Rising Lane. However, the gaps between the dwellings themselves would be larger than those generally found in the village, including some on the spur off Rising Lane. In this context, I consider that the gap formed by the appeal site is not small.
7. A recent appeal decision at Burton Green, Kenilworth¹ permitted a dwelling within a gap that I am told is much larger than here. However, that decision did not specifically conclude that the gap involved there was 'small' or that it complied with Policy H11. Moreover, the other Inspector reached a conclusion on that proposal on the facts of that site, where large-scale housing had been approved nearby; outside of but close to an allocated Growth Village, and where the site was at one extent of a long ribbon of development, part of a substantially uninterrupted line with few breaks in continuity.
8. This contrasts with the position of the dwellings off Rising Lane, where the site is not close to a Growth Village and where the spur, consisting of only a handful of dwellings, is not a long ribbon. Furthermore, the gaps between dwellings varies. The distribution of buildings gives this part of the village a loose knit, somewhat sporadic and fragmented pattern. As such, the frontage is not largely uninterrupted, and little comparison can be drawn from the decision at Kenilworth. I therefore give the other appeal decision very limited weight.
9. The LIV boundary was introduced in the current Development Plan and includes the site and the whole of the spur off Rising Lane. However, this boundary would have been drawn in the knowledge that Policy H11 only permits infilling in limited circumstances, and I have been given no evidence that it resulted from any specific assessment of the merits of the appeal site. It cannot therefore be assumed that the position of the boundary means that infilling within it is necessarily acceptable.
10. In respect of the highway, the term 'front' in Policy H11 is not defined. However, to my mind it suggests a relationship closer than just facing, overlooking or being orientated towards the highway, but one where the highway is in immediate or very close proximity. Even if Bridleway W55 does constitute a 'highway' for the purposes of Policy H11, the proposal would not front onto it, but onto the parallel private driveway leading to Lynton Croft, with an intervening strip of land with hedgerows, trees and fencing. As such, I find that the proposal would not front the public highway.
11. Notwithstanding the existence of the boundary treatments, I saw that the gap formed by the appeal site is visible in the street scene from the spur off Rising Lane, including the Bridleway. It is also visible from Rising Lane itself, at its

¹ APP/T3725/W/21/3278602

junction with the spur. Nevertheless, for the reasons given above, the proposal would not infill a small gap fronting the highway between an otherwise largely uninterrupted built-up frontage.

12. I therefore conclude that the proposal would be inappropriate development in the Green Belt having regard to Policy H11(b) of the WDLP and would not constitute limited infilling, conflicting also with paragraph 149 of the Framework.

Openness of the Green Belt

13. A fundamental aim of Green Belt policy is to keep land permanently open. Notwithstanding some vegetation within and around the site, it consists of open, undeveloped grassland.
14. Each of the proposed dwellings and their associated buildings would have a wide appearance and a tall height, resulting in a large scale and mass of development. The introduction of the buildings, onto land that is currently absent of any built form, would result in the erosion of three-dimensional space, which would encroach into the site's openness and the spatial and visual contribution that it makes to the rural character of this part of the Green Belt.
15. As such, I find that the effect of the proposal on the openness of the Green Belt would be harmful.

Character and Appearance of the area

16. The site is on the edge of the village and is surrounded by a gently rolling landscape that includes woodland edges, parkland and trees. As such, notwithstanding the presence of dwellings either side of the site, it contributes positively to the strongly rural character of the area. The site is not accessible to the public, but I have already found that it is visible from public viewpoints and so it forms an important part of the integrity of the village.
17. I understand that the site was previously associated with The Haven and has not been used for agricultural purposes, but it nevertheless has the attractive appearance of countryside. The proposal would retain some space between each dwelling and the plot boundaries, and the design of the proposal would complement the established vernacular. Existing landscaping features would be retained and supplemented with additional planting.
18. However, even with the planting, the mass and volume of the built form, together with the hard surfacing of the driveways and the domestic paraphernalia associated with the proposal, would significantly urbanise and detract from the rurality of the site and the surrounding landscape. As such, the effect of the proposal on the character and appearance of the area would be harmful and would conflict with Policy H11(c). This requires that the site does not form an important part of the integrity of the village, the loss of which would have a harmful impact upon the local character and distinctiveness of the area.

Other Considerations

19. It is common ground between the main parties that the proposal would be acceptable in respect of the living conditions of nearby properties, highway safety, the effect on biodiversity and other matters. I see no reason to

disagree. However, that the proposal does not cause harm in these respects is neutral in the planning balance rather than constituting a positive benefit.

Conclusion

20. The proposal would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. I also attach substantial weight to the harm to the character and appearance of the area.
21. For the reasons set out above the harm to the Green Belt, and to the character and appearance of the area, would not be clearly outweighed by the other considerations. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated.
22. Consequently, for the reasons given, there would be conflict with the Development Plan, read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

O Marigold

INSPECTOR