



Appeal Decision

Site visit made on 15 November 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/V4630/W/22/3297674

Land north end of Harden Road, Leamore, Walsall WS3 1RR

- 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 BCM Construction (UK) Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/1099, dated 8 September 2020, was refused by notice dated 20 December 2021.
 - The development proposed is 4 semi-detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is located within the Green Belt and therefore the main issues are:
 - Whether the proposal would be 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 highway safety; 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 Inappropriate development

3. Paragraph 147 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
4. Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include

limited infilling in villages and, the limited infilling or redevelopment of previously developed land subject to it not having a greater impact on the openness of the Green Belt. Policies 3.2-3.5 and GP2 of the Walsall Unitary Development Plan (the UDP) and Policy GB1 of the Walsall Site Allocation Document (the WSAD) collectively, and in so far as they are relevant to the matters of the appeal before me, rely upon the provisions set out within the Framework are consistent with it.

5. Both parties, within their assessment as to whether the development would be limited infilling within a village, have been silent as to whether it would be limited development and whether it would be within a village. From the evidence before me and my observations on site, however, it appears that the appeal site forms part of Walsall, a town, rather than any village. Although the Framework does not define a village, it is clear within Paragraph 149(e) that the exception applies only to villages. I do, however, find that in terms of its scale and the number of properties proposed, would be limited.
6. Nevertheless, even if I were to find that the proposal was within a village, I must consider whether the proposal comprises infilling. The appeal site is bounded on two sides by development that is separated from the site by a narrow waterway. To the other two sides are a public footpath, following a former railway line, and Harden Road. Beyond these routes are significant open spaces that separate the site from other built development.
7. Although the site is close to the residential development against the waterway, its verdant and wooded character results in it being read more in connection with the open land. The proposal would result in the extension of development into this undeveloped land and would not infill a gap between development. I do not therefore consider the development to be infilling.
8. The appellant has also raised that the appeal site was the location of a railway station serving the former railway line and therefore benefits from the exception set out under Paragraph 149(g). As outlined above, this allows for the redevelopment of previously developed land. The glossary of the Framework describes previously developed land as land that is or was occupied by a permanent structure, excluding where the remains of the permanent structure or fixed surface structure have blended into the landscape.
9. At the time of my site visit it was clear that the site has become overgrown with vegetation, including mature trees. No remains of the building were visible during my observations on site and there is no substantive evidence before me that any remains are present on site. Lacking any evidence to the contrary, and mindful that, according to the appellant's submissions, the station was demolished in 1960, I find it very unlikely that the building's remains have not blended into the landscape.
10. In light of the above, the proposal would therefore not comply with either exception (e) or (g) set out under Paragraph 149 of the Framework and would be inappropriate development within the Green Belt.

Effect on openness

11. Paragraph 137 of the Framework identifies that openness is one of the essential characteristics of Green Belts, along with permanence. The openness of the Green Belt has both a spatial and visual aspect and the absence of

intrusion in one aspect does not mean that there is no impact on openness where an intrusion is found via the other aspect.

12. In this case, the four proposed dwellings would result in the loss of a wooded area, where there is no built development. This would significantly change the physical nature of the site and would be exacerbated by the presence of hardstanding, boundary treatments and residential paraphernalia. Moreover, the dwellings would be prominently located in views from the footpath and highway and as such it would, alongside the spatial effect, have erode the visual aspect of openness.
13. The proposal would therefore result in an unacceptable effect on the spatial and visual aspects of the openness of the Green Belt. Whilst this loss of openness would be limited, relatively to the Green Belt as a whole, harm to the Green Belt would nevertheless occur. This matter therefore carries substantial weight.

Highway Safety

14. The appeal site is set at the junction between a footpath and Harden Road with vehicular access proposed off the road. Harden Road is a main thoroughfare which bends slightly at the appeal site and was, at the time of my site visit, characterised by a regular flow of vehicles.
15. The submitted plans demonstrate a visibility splay for vehicles leaving the site, however the splay extends beyond the edges of the drawn plans as well as beyond the land identified as within the appellant's ownership. Consequently, I cannot be certain that the visibility splay would extend a sufficient distance to the east, without obstructions, in order to provide a safe access. The area of the visibility splay outside of the appellant's ownership could not be controlled by way of conditions in the event that the appeal were to be allowed and, therefore, it could be compromised by planting or development by neighbouring landowners. Consequently, the proposal would result in an increased risk of conflict between vehicles exiting the site and those travelling along Harden Road, due to the poor level of intervisibility.
16. In light of the above, and by way of not providing a suitable visibility splay, the proposal would result in an increased risk to highway safety contrary to Chapter 9 of the Framework, and in particular Paragraphs 110 and 111 which seek to prevent unacceptable impacts to highway safety, including through the provision of a safe and suitable access. The Council have referred to UDP Policy GP2, this policy does not refer to highway safety and therefore I do not find it is particularly relevant to this issue. Similarly, although the Council referred to Paragraph 109 of the Framework, this is also not relevant to the case before me.

Other Considerations

17. Paragraph 138(e) of the Framework states that one of the aims of the Green Belt is to assist urban regeneration, by encouraging the recycling of derelict and other urban land. The appellant submits that the appeal site should have been previously developed and that the proposal would support urban regeneration. However, as the appeal site is not previously developed land and is more closely related to the open spaces than built environment, I do not find

it to be derelict urban land. I therefore attach this matter only very limited weight in my considerations.

18. The Government's objective is to significantly boost the supply of housing and the proposal would provide four new dwellings. It would also lead to a small and time-limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal these matters would at most attract moderate weight.

Green Belt Conclusion

19. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. Further harm would also occur to highway safety. These matters carry substantial weight. At most I have attached moderate weight to the considerations in support of the proposal. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with Policies 3.2-3.5 and GP2 of the UDP and Policy GB1 of the WSAD limit development within the Green Belt. The proposal would also conflict with the Green Belt aims of Section 13 of the Framework, and in particular Paragraphs 147 to 149.

Conclusion

20. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR