



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: 22nd December 2022

Appeal Ref: APP/K3415/W/22/3298953

Land South of Derry Farmhouse, 26 Birmingham Road, Shenstone, Lichfield WS14 0LH

- 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 P Cockle & Ms N Gale against the decision of Lichfield District Council.
 - The application Ref 21/01162/OUT, dated 18 June 2021, was refused by notice dated 27 January 2022.
 - The development proposed is the erection of a 2 no. detached dwellings with associated works (Outline: access and layout).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal before me has been made in outline with only the matters of access and layout being considered at this stage. All other matters, namely appearance, landscape and scale, have been reserved for a subsequent application. I understand from the appellant's case that the submitted drawings, in these respects, are for illustrative purposes only and I have considered them as such.
3. The appeal site is within 15km of the Cannock Chase Special Area of Conservation (the SAC), which is a designated site. The Conservation of Species and Habitats Regulations 2017 (as amended) requires the decision maker to consider whether or not the proposal could adversely affect the integrity of the site. Therefore, whilst this was not raised as a reason for refusal during the planning application process, I have nonetheless considered this matter below.

Main Issues

4. 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;
 - Whether the appeal site is suitable for residential development;

- 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

5. 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.
6. 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. Policy NR2 of the Local Plan Strategy 2008-2029 (the LPS) and Policy GB1 of the Shenstone Neighbourhood Plan 2015-2029 (the SNP) rely, in so far as they are relevant to the matters of the appeal before me, on the exceptions set out within the Framework.
7. The appeal site is located in a rural area characterised primarily by fields interspersed with sporadic groups of development. Immediately adjacent to the appeal site is a small group of dwellings accessed from Birmingham Road. The appeal site itself is an equestrian field which shares access with one of these dwellings.
8. I am mindful of the Court of Appeal case¹ raised by the appellant and that the Framework does not define what a village is for the purpose of planning. As such, whether the appeal site is within a village is a matter of judgement based not only on any relevant policies, but also the situation on the ground. In this case, it was clear during my observations that the appeal site was part of a small group of dwellings, and that there was further development between this group and nearby formal settlements. However, the group and wider development was loose and irregular and did not physically or visually read as a continuation of the nearby settlements of Shenstone or Shenstone Woodend. Consequently, site is therefore not within a village for the purposes of Paragraph 149(e) of the Framework. Nevertheless, if I were to find the appeal site to be within a village, I must consider whether the development comprises limited infilling.
9. In this case, as there are only two dwellings proposed, the development can be said to be limited. However, the appeal site does not appear as a gap between development but instead, as part of the open countryside interspersed by development. Therefore, instead of infilling a gap the development would be an extension of the existing group of dwellings. Consequently, and although limited development, the proposal would not be infilling within a village.

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

10. As the effect of development on the openness of the Green Belt is not referred to within the exception, it is deemed to be intrinsic in the assessment as to whether the proposal meets the exception under paragraph 149(e). As such, by way of being inappropriate development the proposal would harm the openness of the Green Belt and it is unnecessary for me to assess this further.

Suitability of Site

11. Core Policy 1, Core Policy 6 and Policy Rural 1 of the LPS direct residential development towards the most accessible and sustainable locations. LPS Core Policy 1 sets out a list of settlements where residential development is directed, this includes Shenstone. Core Policy 6, Policy Rural 1 and Policy Rural 2 of the LPS allow for some residential development within rural areas where it either meets exceptions or meets a requirement demonstrated by the local community.
12. As outlined above, the appeal site is outside of any settlements, including named settlements such as Shenstone. Consequently, it would not meet the requirements for development to be either within a settlement or so related as to help the expansion of a settlement. No evidence has been provided to demonstrate that residential development in this location would be supported by a local need identified by the local community or development plan.
13. Although LPS Core Policy 6 sets out a number of exceptions where rural development can be acceptable, the main parties have been silent on these. Nevertheless, for those that have not already been covered above, it is clear that the proposal would not meet them as it would not include the conversion of an existing building, the provision of rural workers' accommodation or affordable housing.
14. Although my site visit can provide only a snapshot in time, it was clear from my observations on site that Birmingham Road is a fast road serving a fairly high level of traffic. The road does have a pavement on the opposite side of the carriageway from the appeal site, but this is very narrow in places and is not accompanied by street lighting. Given the distance from the appeal site to nearby services and facilities, including the train station at Blake Street, I find it would be unlikely that future occupiers would wish to, or feel safe, walking along Birmingham Road. This would be especially so for vulnerable users, including those with wheelchairs or pushchairs, and for pedestrians walking during the hours of darkness. I find that cycling to either settlement would be an equally unsafe and unappealing prospect for future occupiers given the road's speed limit of 50mph and the level of traffic using the road.
15. My attention has been directed to the bus stop very close to the appeal site, although this may provide access to nearby services and facilities, I have not been provided with details or timetables for the services that use this stop. I note also from the Council's submissions that the service stops in the afternoon and does not run on Sundays. I cannot be certain therefore, that the bus service would provide a viable option for commuting to work or education, or for carrying out the weekly shop. This would likely lead to future occupiers being reliant on private motor vehicles.
16. Therefore, and although not isolated from other development, the proposal would nevertheless have poor access to services and facilities. I am mindful of

the previous appeal decision² where a similar location was deemed to have good access, but this is of some age, and I do not have all the evidence that was before that Inspector. All proposals must be considered on their own merits and therefore, in this case, I do not have sufficient evidence to demonstrate the location would be suitable, mindful of the policies.

17. Given the appeal site's location, and that it would not meet any exception within the development plan, I conclude that it is not within a suitable location for a new dwelling, future occupants would also not have reasonable access to services and facilities. The proposal is therefore contrary to the locational strategy outlined above and set out in Core Policy 1, Core Policy 6, Policy Rural 1 and Policy Rural 2 of the LPS. It would also conflict with the housing strategy set out under Section 5 of the Framework and the guidance on pedestrian access set out within the Sustainable Design Supplementary Planning Document. Although the Council have also referred to Policy H2 of the SNP, this relates to development within the built-up area of Shenstone and is therefore not directly relevant to the appeal before me.

Highway safety

18. The access to the appeal site is close to, and on the Shenstone side of, a notable bend in Birmingham Road. The access serves one dwelling, number 26 Birmingham Road, and two equestrian fields. I also note that there is extant permission for one additional dwelling to the rear of the number 26, but it was not built at the time of my visit. Given the above, there would already be a level of vehicular movements to and from the site, and it is likely that the extant permission would increase this further.
19. The proposal would result in two dwellings that would, as noted above, likely be reliant on the use of private motor vehicles. I find that vehicular movements associated with the future occupiers would include commuting, education, shopping and social visits. Taking account of the extant residential permission, the proposal would double the potential residential vehicular movements associated with the access. Moreover, although the equestrian use would be reduced in scale, it would nevertheless be retained and therefore it would still result in associated vehicular movements. The proposal would therefore lead to a significant increase in vehicular movements to and from the appeal site.
20. Given the nature of the access and the bend in the road, visibility to the right for pedestrians and motorists leaving the site would be restricted. Visibility for road users approaching the site from this direction would also be restricted. Although the access, and limited visibility, is existing, the intensification of the use would lead to an increase in potential conflict between those leaving the site and vehicles on the highway. I have not been provided with a visibility splay from the access and although the wooded verge to the front of the site may now be within the appellant's ownership, it has not been demonstrated how this could ensure a suitable level of intervisibility.
21. Although I have concluded that most journeys are likely to be completed by private motor vehicle, some future occupiers may wish to walk or take public transport, and it is necessary for me to consider this also. Pedestrians leaving the site would also use the vehicular access, and as there is no pavement on the appeal site side of the road, would need to cross at this point. Intervisibility

² APP/K3415/W/18/3217357

between pedestrians leaving the site and traffic leaving the bend would, as noted above, be limited and given the slow speed of pedestrians, they would be at greater risk of conflict with motor vehicles on the highway.

22. I am mindful that the Inspector dealing with the above mentioned previous appeal did not refer to any access or highway safety concerns. However, I must consider the cumulative impact of this scheme alongside the existing and extant development.
23. In light of the above, the proposal would result in an unacceptable impact on highway safety as a result of the increased level of movements to and from the site. the proposal would therefore conflict with LPS Policies BE1 and ST1 which require that proposals have a positive impact on public safety, provide safe access to public transport and do not adversely affect highway safety. The proposal would also conflict with highway safety aims of Chapter 9 of the Framework, including Paragraph 111.

Other Considerations

24. The appellant has submitted that the proposal, by way of being a small, windfall, scheme would provide a beneficial contribution to the local housing requirements. I am mindful that the Government's objective is to significantly boost the supply of housing and that the proposal would provide two new dwellings. As such, and given the scale of the proposal, this matter would attract moderate weight.

Green Belt Conclusion

25. 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, through the conflict with the spatial strategy and to highway safety. These matters carry substantial weight. I have attached moderate weight to the consideration 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 LPS Policy NR2 and SNP Policy GB1 as outlined above.

Other Matters

26. The appellant has raised a number of examples of planning decisions for ostensibly similar schemes, namely: The erection of two detached dwellings within Shenstone Woodend³; the replacement of existing buildings with a dwelling to the rear of the appeal site⁴; and, the replacement of existing buildings with six dwellings adjacent to the site⁵. Regarding the first pair of appeal decisions, the two dwellings in Shenstone Woodened were sited within the village, whereas I have found the appeal before me to not be within the village. The other two decisions, by way of being replacement buildings, related to different exceptions set out under Paragraph 149, and not exception (e). Therefore, and although all four decisions relate to new dwellings within the Green Belt, none of these are so similar as to be relevant to the appeal before me.

³ APP/K3415/3261115 & APP/K3415/3261119

⁴ 19/01217/FUL

⁵ 15/00920/FUL

27. I have found harm to the Green Belt, the spatial strategy and highway safety resulting from the proposed development. As such the appeal must fail and therefore any potential harm to the SAC would not occur and thus there does not need to be any means of mitigation in place. I therefore do not need to consider the matter further.

Conclusion

28. 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