



Appeal Decision

Site visit made on 10 January 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2023.

Appeal Ref: APP/W3710/W/22/3307083

416 Nuneaton Road, Bulkington, Bedworth CV12 9SB

- 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 Walter Dodd against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 038760, dated 25 March 2022, was refused by notice dated 15 August 2022.
 - The development proposed is erection of dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of dwelling at 416 Nuneaton Road, Bulkington, Bedworth CV12 9SB, in accordance with the terms of the application, Ref 038760, dated 25 March 2022, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Mr Walter Dodd against Nuneaton and Bedworth Borough Council, which is the subject of a separate decision.

Preliminary Matters

3. The application was made in outline with all matters reserved for future consideration, except for access. I have had regard to the site location plan and the illustrative proposed site layout plan but have considered all elements as indicative, apart from the access.
4. The appeal site is adjacent to a site to the rear of Marston House Farm which is allocated under Policy DS5 of the Nuneaton and Bedworth Borough Council Borough Plan 2011-2031 (adopted June 2019) (BP) for residential development of 43 dwellings.

Main Issue

5. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the development plan and the National Planning Policy Framework (the Framework).

Reasons

6. The appeal site is located to the side of 416 Nuneaton Road and is currently used as garden. It is within the Green Belt.

7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Development within the Green Belt is inappropriate, with certain specified exceptions. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Policy DS7 of the BP specifies that to ensure the Green Belt across the borough continues to serve its fundamental aim and purpose, and maintains its essential characteristics, it will be protected by restricting development to only that which is considered by national planning policy as not inappropriate Green Belt development, except where very special circumstances can be demonstrated.
9. Framework paragraph 149e sets out an exception for the construction of new buildings in the Green Belt, where it is limited infilling in villages. Therefore, consideration needs to be given to whether the site is in a village and whether the proposal would represent limited infilling. There is no definition of 'village' or 'limited infilling' within the Framework and my attention has not been drawn to any definition in the BP.
10. The Council report states that the site falls within the settlement boundary. In addition, during my site visit it was evident that the site is located between the dwelling at No 416 and Marston House Farm which contains a dwelling and a mix of farm buildings. The site fronts onto the road and adjoins fields to the rear. Either side of the farm and No 416 is a ribbon of dwellings which are a mix of detached and semi-detached, one and two storey and a range of sizes and designs. There are no significant breaks in the ribbon development, which also has some depth along nearby Avon Close. While there is currently no permission in place, the fact that the site to the rear of Marston House Farm is allocated for 43 dwellings is also a consideration. The allocation indicates that the Council consider the area to be suitable for residential development. Taken together, the above factors lead me to conclude that the site is 'in a village' for the purposes of Framework paragraph 149e.
11. The proposed dwelling would sit at the end of a run of dwellings from Avon Close to No 416. At present, No 416 sits to one side of a large plot which is wider than neighbouring plots. The appeal site consists of around half of the current plot of No 416 and is of a broadly similar scale and width to neighbouring plots. The site would allow for a single dwelling of a similar scale and spacing¹ to the established pattern of the area. To the other side, the site adjoins the end of the garden of the dwelling at Marston House Farm. Due to the orientation of the farm dwelling, its garden runs adjacent to the road. Despite this garden providing a modest break in dwelling frontages, it has a solid fence for its full length, is residential in character and appearance, and the farm buildings behind it are visible within the streetscene². Beyond the farm dwelling there is a line of farm buildings adjoining the road, before dwelling frontages start again. Consequently, there is no significant gap in built form and the garden of the farm dwelling does not contribute in a meaningful way to the openness of the Green Belt. Taken together, the above factors lead me to conclude that the proposal would be 'limited infilling' for the purposes of Framework paragraph 149e.

¹ Subject to approval of details at reserved matters stage.

² If the allocated site to the rear is developed, the dwellings would be likely to be visible from the road.

12. For the reasons set out above, I consider the proposal to be limited infilling in a village. Therefore, in accordance with paragraph 149e of the Framework, the proposed new dwelling would be not inappropriate development in the Green Belt.
13. Policy DS7 of the BP also states that any development proposals considered not inappropriate for locating within the Green Belt should demonstrate how their plans will retain the five key purposes of the Green Belt. However, this policy predates the most recent version of the Framework. Case law³ has established that where development is found to be not inappropriate, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within the Green Belt. As a consequence, for those exceptions within the Framework where the effect of the development on Green Belt openness and purpose is not expressly stated as a determinative factor in gauging inappropriateness, there is no requirement to separately assess openness or purpose. This is the case for the exception relating to limited infilling in villages.
14. Notwithstanding the above, due to its location and modest size, the proposed development would not result in the unrestricted sprawl of large built-up areas, the merging of neighbouring towns or encroachment into the countryside. Subject to suitable details at reserved matters stage, the proposal would also preserve the setting. One modest dwelling at the proposed site would not discourage urban regeneration or the recycling of derelict and other urban land. Hence the five key purposes of the Green Belt would be maintained.
15. The proposal would meet the criteria for the exception set out in paragraph 149e of the Framework, so would be not inappropriate Green Belt development under national planning policy. Therefore, the proposal would comply with Policy DS7 of the BP which seeks to protect the Green Belt.

Other Matters

16. As set out above, the proposal would be not inappropriate development in the Green Belt. Hence there would be no harm caused to the Green Belt. Consequently, it is not necessary for me to consider whether very special circumstances might exist.
17. The proposal is in outline, with matters relating to appearance, landscaping, layout and scale not being considered at this stage. I have been presented with no substantive information which would lead me to conclude that, subject to the approval of suitable details at reserved matters stage, a dwelling at the site would have an unacceptable impact on the character and appearance of the site and the surrounding area.
18. The Council have stated that the proposed development would set an unacceptable precedent for future development. However, I have not been provided with information regarding comparable sites to which any such precedent might apply. In addition, as I have found that the proposal would be not inappropriate development in the Green Belt, it would not create a precedent for development that would be inappropriate development. Each appeal must be determined on its individual merits, and I am unable to give weight to a generalised concern of this nature.

³ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404.

19. I am aware of the permission granted for a dwelling on land at 453 Nuneaton Road, which is also within the Green Belt. Regardless, this appeal has been determined on the basis of its own context and merits.

Conditions

20. The Council and its consultees have suggested conditions that they consider would be appropriate, I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording and have omitted some of the suggested conditions.
21. As planning permission for the development is granted at outline stage with all matters reserved, except for access, a condition is necessary to secure matters of appearance, landscaping, layout and scale, with the standard conditions specifying when the reserved matters applications must be submitted and when the development must be commenced by. A condition listing the approved drawings is also necessary to provide clarity.
22. In the interests of the character and appearance of the site and surrounding area and to ensure adequate drainage, conditions are necessary to ensure that site levels and drainage provision are appropriate.
23. The Council suggested a condition requiring a noise assessment and noise attenuation scheme but provided no details to explain or justify the need for this. Given the site location and nature of the surrounding uses I do not consider such a condition would be necessary or reasonable. The Council also requested conditions to secure details of materials and boundary treatments. These details would be covered by submissions seeking approval for the reserved matters of appearance, landscaping and layout as required by the first condition of outline permission. Separate conditions are not necessary.

Conclusion

24. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed.

Helen Davies

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) An application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Unless where required or allowed by other conditions attached to this permission, the development hereby approved shall be carried out in accordance with the site location plan (red outline) and drawing reference 302-BT-001 (so far as this identifies the point of access).
- 5) Before the commencement of any development above slab level, details of site levels and finished floor levels shall be submitted to and agreed in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.
- 6) Before the commencement of any development above slab level, details of a scheme for the disposal of surface water shall be submitted to and agreed in writing by the Local Planning Authority. The dwelling hereby approved shall not be occupied until the approved scheme has been implemented and the scheme shall be maintained as such thereafter.

***** End of Conditions *****