



Appeal Decision

Site visit made on 27 March 2023

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 27 April 2023

Appeal Ref: APP/T3725/W/22/3312766

Land at The Granary, Church Road, Baginton, Warwickshire CV8 3AR

- 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 Kenneth Holmes against the decision of Warwick District Council.
 - The application Ref W/21/0711, dated 5 August 2021, was refused by notice dated 19 August 2022.
 - The development proposed is the erection of a single-storey dwelling.
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Decision

1. The appeal is dismissed.

Main issues

2. Having regard to all the submissions before me, I find that the main issues in the appeal are as follows:
 - whether the proposed development would accord with the relevant local and national policies relating to development in Green Belts;
 - whether the development would accord with other relevant policies relating to the location of new housing development in the District;
 - the development's effects on the character and appearance of the area, including its effects on the Baginton Conservation Area;
 - the effects on highway safety;
 - whether any other matters add weight in favour of the development;
 - if the development is found to cause harm to the Green Belt, whether that harm, together with any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances that are necessary to justify development in Green Belts.

Reasons for decision

Green Belt

3. The appeal site lies within an area defined as Green Belt (GB) on the Policies Map of the Warwick District Local Plan (the WDLP), adopted in September 2017. In the GB, WDLP Policy DS18 states that national policies will apply.
4. The relevant national policies are those of the National Planning Policy Framework (the NPPF). Paragraph 137 sets out that the main aim of GB policy is to keep land permanently open. Paragraph 147 states that development which is 'inappropriate' in the GB is harmful by definition, and should not be

approved except in very special circumstances. Paragraph 149 requires that new buildings are to be treated as inappropriate, except where they fall within the exceptions listed at (a) – (g); these include (e), which relates to infilling, and (g) which is concerned with previously developed land (PDL). In the present case, the proposed dwelling would be a new building, and therefore inappropriate, unless falling within any of these specified exceptions.

5. In relation to sub-paragraph 149(e), the appeal site lies adjacent to the village of Baginton, and forms part of the garden of the existing property The Granary. There is existing housing on the site's western side boundary, and to the front and rear. On its fourth side, the site is enclosed by boundary trees and vegetation, which makes it visually more connected to the adjoining development than to the Millennium Field, beyond that boundary. In terms of its size, the site is comparable with other dwelling plots nearby. As a single new dwelling, the scale of the proposed development would be limited. These features are ones which would often be associated with 'infilling'.
6. However, in the WDLP, the definition of infilling as set out in Policy H11 also requires, amongst other things, the site to comprise a gap within an otherwise largely uninterrupted built-up frontage. WDLP paragraph 2.71 makes it clear that this definition is intended to apply to infilling in the GB as well as in villages designated for infill. In the case of the appeal site, although there are two properties to the west of the site, in the other direction the southern side of Kimberley Road has no built-up frontage at all. The site is therefore not a gap in an otherwise built-up frontage. As such, it falls outside of the definition of infilling which applies within Warwick District.
7. I appreciate that the NPPF does not limit the meaning of 'infilling' in the same way as does WDLP Policy H11, but nor does the national policy contain any specific alternative to this definition. Consequently, in my view, there is no inconsistency between the two. In any event, as an adopted development plan, the WDLP has been consulted upon and examined, and has statutory status. Furthermore, to my mind, the WDLP definition of infill accords with the word's natural meaning. As such, I see no reason not to apply it in this case. It follows that the appeal proposal does not fall within the scope of the exception for limited infilling which is allowed the relevant GB policies.
8. In this context, I have had full regard to the judgement of the Court of Appeal in the case known as *Julian Wood*¹, which also related to infilling. However, that case turned primarily on the method for deciding whether the site in question was within a village, and whether the settlement boundary in the local plan was determinative in that respect. Whereas, in the present case, my reasoning on whether the development would be infilling is not dependant on the village boundary. Here, as explained above, the key factor is the lack of a continuous built-up frontage, and this clearly distinguishes this case from the *Julian Wood* judgement. In this case, taking account of the site's position, and that of the other nearby development, I have found the site not to be an infill.
9. In this context I also note the contents of the two appeal decisions referred to by the appellant, in which the inspectors found sites at Burton Green, in Warwick District, and Church Lawton in East Cheshire, to be infilling, despite being outside their respective village boundaries². However, the decisions in

¹ J Wood v Secretary of State for Communities and Local Government and Gravesham BC, [2015] EWCA Civ 195

² APP/T3725/W/21/3278602 and APP/R0660/W/17/3170279

those cases evidently turned upon the particular circumstances of the sites in question, as does mine in this case.

10. With regard to NPPF sub-paragraph 149(g), although the appeal site falls within the NPPF's definition of PDL, the appellant accepts that the scheme would not meet the terms of the exception, because it would have a greater impact on the GB's openness than the site in its current undeveloped state. I agree with this reasoning. The exception under 149(g) therefore does not apply in this case. As far as I am aware, there is no suggestion that the appeal proposal could fall within any of the other exceptions in NPPF paragraph 149.
11. Having regard to all the above matters therefore, I conclude that the scheme constitutes inappropriate development in terms of GB policy, which is deemed harmful to the GB by definition. In addition, the adverse impact on openness would constitute further harm to the GB. In both these respects, the development would conflict with national GB policies, and therefore also with WDLP Policy DS18.

Housing location policy

12. WDLP Policy H1 directs new housing development firstly to the District's four towns, and to allocated sites, and then to sites within the boundaries of Growth and Infill villages. The reasoning behind this policy relates to the desirability of ensuring that development takes place primarily in the most sustainable locations. Although Baginton is designated as a Growth Village, the appeal site is outside the defined village boundary, and is therefore treated in policy terms as being in the open countryside.
13. Whilst Policy H1 allows for housing in the countryside in some circumstances, this would require all of the policy's criteria to be met. Amongst these, is a requirement that such development would contribute to meeting an identified housing need. WDLP paragraph 4.9 makes it clear that this means either a shortfall in the District's overall 5-year housing land supply, or a local need identified through an up-to-date survey.
14. In this case it is accepted that the Council can show a 5-year supply. Although a Local Housing Needs Survey of the village in 2018 found a need for six social rented or shared ownership dwellings, there is no suggestion that the present proposal would contribute to meeting that need, in terms of tenure; nor indeed is there any evidence as to whether this still represents the up-to-date position. The development now proposed is said to be designed to meet the appellant's own needs, but there is little further information as to the nature of those needs. The scheme would also release an existing property in the village, but in the absence of any obligation to the contrary, it would appear that this would be via a sale on the open market. None of the evidence before me suggests that the development would meet an identified local need of the kind envisaged in Policy H1.
15. In so far as any of the WDLP's other housing policies may be relevant, Policy H10 encourages housing in Growth Villages, but only on allocated sites, and Policy H11 permits infilling development in Limited Infill Villages. But the appeal site is neither an allocated site nor infill, and consequently neither policy supports the proposed scheme.

16. In considering this issue, I have again had regard to the *Julian Wood* case. But whilst that case related to infilling, it did so in the context of GB policies only. As far as I am aware, nothing in the judgement suggests that settlement boundaries in adopted local plans should be disregarded for the purposes of more general policies on housing location, such as H1.
17. I appreciate that, given the site's location adjacent to the village boundary, the dwelling now proposed would have access to village facilities and bus services, similar to a site within that boundary. But the same could be said of many other developments on similarly located sites, which collectively would undermine the strategy behind the WDLP's housing policies, including Policy H1. To my mind the purpose of defining village boundaries is clearly to ensure consistency and certainty in the application of those policies, and it is therefore necessary to make a distinction between sites within village boundaries and those outside. In the present case there is no apparent reason to set aside this established approach to the application of Policy H1.
18. For the reasons explained above, I conclude that the proposed development would fail to accord with Policy H1, or any other relevant WDLP policies relating to the sustainable location of new housing.

Character and appearance

19. The appeal site lies within the Baginton Conservation Area (the CA). The Council's Refusal Reason No 3 (RR3) identifies harm to the village street scene and setting, but not to the CA as such. However, the effect on the CA is raised in as an objection in representations made on behalf of local residents. And in any event, given the site's location in the CA, I am required by law³ to pay special attention to the desirability of preserving or enhancing the CA's character or appearance.
20. In this context I have also had regard to the most relevant planning policies relating to CAs and heritage assets, as well as those relating to design more generally. In the WDLP, these include Policy BE1 which seeks good standards of design and layout, respecting and reinforcing local architectural and historical distinctiveness; and Policy HE1 which reflects the advice in paragraphs 201 and 202 of the NPPF regarding substantial and less than substantial harm. In the Baginton and Bubbenhall Neighbourhood Plan (the BBNP), Policy BAG3 requires developments to be sited and designed to respect and enhance the village and its setting. In addition, NPPF paragraphs 199 and 200 require great weight to be given to the conservation of all heritage assets, and that any harm in this respect should be clearly and convincingly justified.
21. The Baginton CA is focussed on the village's historic centre, around the junction of Church Road with Kimberley Road, with most of the village's surviving older buildings, being grouped around these two roads. These including the mediaeval Parish Church, and other buildings from the 16th century onwards, including the Old Schoolhouse, Old Rectory, former farmsteads, and workers' cottages. The sites of the former Castle and Hall are nearby. From my observations, and in the absence of any other evidence, the CA's significance appears to lie in its historical and architectural interest as an example of an agricultural village typical of this part of Warwickshire.

³ Under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

22. The appeal site forms part of what was once the farmyard and farm buildings of Home Farm. Home Farm House itself remains, occupying a key position at the CA's centre, and the other associated buildings have been converted to four dwellings, including The Granary, together with The Coach House, The Mews and The Stables, grouped around what would have been the main yard. The conversions appear to have been carried out to a high standard, retaining much of these buildings' original character and features. In their local context, the former Home Farm buildings seem to me an important group, contributing positively to the CA's aesthetic and visual attractiveness, and also continuing to illustrate a significant element of the village's history and evolution.
23. The new dwelling now proposed would be sited close to the rear of The Granary and The Coach House, in a manner that would not relate to the original Home Farm layout. In my view, the addition of a substantial building in this position would have a somewhat ambiguous visual relationship to the rest of the former farmyard buildings, being neither part of the group nor clearly separate from it. As such, the siting of the development would detract from the Home Farm buildings, and from the value of their contribution to the CA.
24. In addition, I have considered carefully the submissions before me with regard to the proposed dwelling's design. I appreciate that the scheme has been designed to avoid exceeding the heights of the former farm buildings, and to use simple rectangular forms; and that the proposed materials have been selected for their high quality, and to provide a good match. But nevertheless, it seems to me that the building form would be quite different from those of the existing buildings, having a significantly deeper plan form to each element, and consequently wider roof spans. To my mind, this would result in a building which would appear uncharacteristically deep and squat, whilst also having an excessively bulky roof, compared to the simple but elegant proportions of its neighbours.
25. In addition, it seems to me that the elevations, with large areas of glazing, placed somewhat randomly with no apparent visual rhythm or other rationale, would fail to create a pleasing composition. I appreciate this must be to some extent a subjective judgement, but I note that one of the residents' objections describes the design as 'relatively standard', and to my mind this indicates that I am not alone in my own reaction to it.
26. In a less sensitive location, these shortcomings might matter less. But on this particular site, the combination of an uncharacteristic building form, together with the poorly composed elevations, would in my view result in a building that would be at odds with its surroundings, undermining the CA's visual and historic cohesion.
27. For these reasons, I conclude that the proposed development, due to its siting and design, would cause harm to the character and appearance of the Baginton CA, and to the setting of the village. As such, the scheme would fail to respect the area's local distinctiveness, contrary to Policies BE1 and BAG3. Whilst, in terms of the wording used in Policy HE1 and the NPPF, this harm would be 'less than substantial', it would nevertheless be damaging to the CA's significance, and therefore in conflict with those policies.

Highway safety

28. The proposed new dwelling would take access from Kimberley Road. Although there is an existing field gate in much the same position, this has apparently been largely unused for many years. The development now proposed would be likely to generate vehicular traffic on a regular daily basis, and thus would involve a significant intensification compared to any previous usage.
29. The application documents do not attempt to quantify the visibility distance that would be available for vehicles emerging from the site access. Nor do the submitted plans propose to create any defined visibility splays, or to show whether the land required is within the appellant's control. The additional plan submitted subsequently⁴ still fails in these respects. But neither does the Council appear to have specified any particular visibility standard that it wishes to see achieved.
30. On my visit, I saw that Kimberley Road forms part of a short loop that runs only through this part of Baginton and returns via Church Road to Coventry Road. The road is unclassified. In total, it serves about 20-30 properties, plus the Church and the British Legion Club. At the time of my visit, all of these were very quiet. I appreciate that the Church and Club are likely to attract some additional external traffic when they are in use, but it seems likely that for most of the time, the street is lightly trafficked. Furthermore, whilst speeds of up to 30mph are permitted, in practical terms this is likely to be reduced, due to the bend at one end, and due to the on-street parking which takes place on what is already a fairly narrow carriageway.
31. Although there are no other active accesses on Kimberley Road's southern side, several of the properties on the north side have individual driveways or off-road parking spaces. In a number of these cases visibility appears to be compromised to a degree by boundary treatments or vegetation, and at times, the on-street parking on this side will present a further obstruction. However, there is no evidence of any significant accident record.
32. At the appeal site, visibility would be affected to some degree by the Coach House's boundary wall to one side, and the Millennium Field hedgerow on the other. The wall is set back behind a grass verge, but the hedge extends up to the carriageway. Visibility would therefore not be perfect. However, even with the bend into Church Road a short way away, Kimberley Road itself is straight, for a good distance either side of the site entrance, and no on-street parking appears to take place on this southern side of the road. An emerging vehicle would therefore be visible to approaching traffic over much of the road's length. Given Kimberley Road's limited function, it seems likely that most drivers will be regular users; and this being so, it seems reasonable to suppose they would soon become aware of the new access, and behave accordingly.
33. Turning space is proposed within the development, and although there can be no guarantee that this would always be used, it seems likely that most vehicles exiting the site would do so facing forwards. Certain other details of the proposed access remain to be defined in detail, but such details could be secured by condition.

⁴ Appendix 4 to the appellant's statement

34. In summary, I accept that the proposed development would not be entirely risk-free. However, that would be an unrealistic expectation of this or any other any development. Having regard to the status and function of the road, and the prevailing traffic conditions, I conclude that any risks to highway safety resulting from this proposed scheme would be acceptably low. On this basis, I am satisfied on balance that the development would be capable of providing safe and suitable access for its users, without significant detriment to highway safety, as required by WDLP Policy TR1.

Other matters

35. The proposed development would bring some benefits. The provision of a new dwelling would help to boost the housing stock. In this the stated intention is for this to be a self-build project for the appellant, thus contributing to the target of matching the number of applicants on the local Self-Build Register. However, it is not in dispute that the District has a 5-year supply of housing land overall, and there is no evidence of any failure by the Council in respect of the duty relating to self-build. The weight that can be attributed to these benefits is therefore no more than moderate.
36. The development would also have some benefits for the local economy. It would provide work for local builders and craftspeople, and inject money into local supply chains. The addition of one household to the area, through the re-sale of the existing property, would boost local spending, and help in a small way to sustain the vitality of the local village community. The District would also benefit through the New Homes Bonus and Council Tax receipts. These economic benefits again carry moderate weight.
37. The scheme would have the potential to incorporate bat and bird boxes, with the potential to increase the site's attraction to these species, but the development would also involve some loss of existing habitat. There is no clear evidence that this would represent a net gain to biodiversity. The introduction of these features therefore counts as a neutral factor.
38. The development would avoid adverse impacts on neighbours and on trees, as well as on highway safety. But in respect of all these matters, the avoidance of harm carries only neutral weight. For similar reasons, the use of sustainable materials and fittings, and the inclusion of measures to ensure water and energy efficiency, and to minimise emissions, all weigh neutrally.
39. The development would utilise PDL, and as such would be preferable to the use of greenfield land. But the land is not derelict or unsightly. Given the lack of an identified need to find additional land for development in the District, the use of PDL in this case carries no particular weight.

The planning balance

40. For the reasons set out above, I have found that the proposed development would cause harm to the Green Belt, by reason of inappropriateness, and through the loss of openness, conflicting with WDLP Policy DS18. NPPF paragraph 148 directs that any harm to the GB is given substantial weight. In addition, I have found the scheme to be in conflict with WDLP Policy H1 with regard to the District's housing strategy, and to cause harm to the character and appearance of the area, including that of the Baginton CA, contrary to WDLP Policies BE1 and HE1, and BBNP Policy BAG3.

41. The development would have some moderate benefits for housing provision and for the local economy. However, none of the other matters raised contributes positive weight in favour of the proposal.
42. NPPF Paragraph 148 makes clear that 'very special circumstances', of the kind that are needed to justify inappropriate development in a GB, can only exist where the combined weight of the harm to the GB, and any other harm, is clearly outweighed by other considerations. In the present appeal, the reverse is the case, as the scheme's benefits are clearly outweighed by the harm.
43. The necessary very special circumstances have therefore not been demonstrated in this case.

Conclusion

44. I conclude that the development would fail to accord with the development plan, and that conflict is not outweighed by any other material considerations. It follows that permission should be refused.
45. The appeal is therefore dismissed.

J Felgate

INSPECTOR