



Appeal Decisions

Site visit made on 21 March 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2023

Appeal A Ref: APP/J3720/W/22/3310071

**Land at Earlswood Common, Earlswood, Warwickshire Easting: 411286
Northing: 272600**

- 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 Ross Riley against the decision of Stratford-on-Avon District Council.
 - The application Ref 21/03716/OUT, dated 23 November 2021, was refused by notice dated 2 August 2022.
 - The development proposed is one self-build residential unit including access with all other matters reserved.
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Appeal B Ref: APP/J3720/W/22/3312309

**Land at Earlswood Common, Earlswood, Warwickshire Easting: 411286
Northing: 272600**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Mr J & J Riley against Stratford-on-Avon District Council.
 - The application Ref 22/02964/OUT, is dated 4 October 2022.
 - The development proposed is five self build residential units including access with all other matters reserved.
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Decision

1. Appeal A is dismissed. Appeal B is dismissed, and outline planning permission is refused.

Procedural Matters

2. The applications were both made in outline with all matters reserved except for access. I have considered the appeals on the same basis and have treated the submitted plans as being for illustrative purposes only, apart from those specifically related to the matters of access in each proposal. As both appeals relate to the same site and largely share the same main issues, in order to avoid duplication, I have dealt with the two schemes together except where otherwise stated.
3. Appeal B arises from the failure of the Council to determine the application within the prescribed period. As such, no formal reasons for refusal exist, but I have based my main issues on the reasons set out by the Council in its statement of case.
4. The Tanworth in Arden Neighbourhood Development Plan 2021-2031 (NDP) was formally made on 12 December 2022. This document, which was still

emerging at the time of the applications, now forms part of the development plan and I have determined the appeal on this basis.

5. I note that reference has been made to the emerging Site Allocations Plan for Stratford-on-Avon District. This is going through the statutory process but has not yet been examined, and consequently policies and allocations within the plan can change accordingly. It is therefore due only limited weight.

Main Issues

6. The main issues are:

- whether the proposals would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
- whether the proposals would accord with the development plan's strategy for the distribution of housing;
- the effect of the proposal on the character and appearance of the area (Appeal B only); and
- would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposals would be inappropriate development in the Green Belt

7. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 147 of the National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The Framework directs that development within the Green Belt is inappropriate, with the exception of the types of developments set out in paragraphs 149 and 150. The appellant refers to the exceptions listed in paragraphs 149 (e) limited infilling in villages; and (g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would (i) not have a greater impact on the openness of the Green Belt than the existing development or (ii) not cause substantial harm to the openness of the Green Belt, where the development would re-use PDL and contribute to meeting an identified affordable housing need within the area of the local planning authority.
9. The appeal site is an 'L' shaped parcel of land located on the eastern side of the B4102 comprising stables and an access track on what is otherwise an open piece of grassed land. The site is positioned between existing dwellings, with Hedgelands located to the north of the site, and Abbey Farm and Swallow Cottage to the south. The site is within the West Midlands Green Belt. Policy CS.10 of the Stratford-on-Avon District Core Strategy 2011-2031 (adopted July 2016) (CS) sets out that the purposes of the Green Belt will be upheld by

- resisting inappropriate development within it. It then lists forms of development that are not inappropriate in the Green Belt, which include types of development which largely replicate those listed in paragraph 149 (e) and (g) of the Framework.
10. With regards to the exception at paragraph 149 (e), the Council considers that neither proposal would constitute limited infilling in a village, as the site does not fall within a 'village' due its location outside of the built up area boundary (BUAB) of Earlswood as defined in the NDP.
 11. The Framework does not define 'village' for the purposes of applying Green Belt policy or guidance. However, case law has established that whilst a village boundary as defined in a Local Plan is a relevant consideration, it is not necessarily determinative, particularly where the boundary as defined does not accord with the Inspector's assessment of the extent of the village on the ground.
 12. I saw the built-up area of Earlswood to comprise compact linear development to the north of the appeal site along the B4102. The appeal site is not far from the continuous built-up area of the village, however the site has a relatively open rural context where development has begun to taper off from an area of higher density residential development within the BUAB. Furthermore, when heading south along the B4102 beyond the BUAB there is an absence of built form on the western side of the highway, including directly opposite the appeal site itself, and buildings generally become far more sparsely spread creating a more rural setting. Overall, the site did not give the impression of being part of the village, but rather on a main road in the countryside. Accordingly, in my view the site is not within the physical confines of the village.
 13. I acknowledge that the appeal site is adjacent to the BUAB and located in between existing residential development, with a small number of other residential properties located further south. The appellant has also referred to two planning permissions¹ for the erection of single dwellings on two other plots near to the appeal site. Both sites however are located north of the appeal site and result in the continuation of the linear form of development along both sides of the B4102, and although both permissions pre-date the adoption of the NDP these sites now fall within the BUAB. These matters do not alter my spatial and visual assessment of the site as it relates to the form of the village.
 14. I therefore conclude that the appeal site does not lie within the physical confines of a village. Accordingly, the proposals do not meet the exception under paragraph 149 (e) of the Framework.
 15. Turning to paragraph 149 (g), the appellant contends that as part of the appeal site formed part of the domestic curtilage of Abbey Farm it is therefore PDL. Irrespective of whether the proposals are considered to constitute limited infilling or the partial or complete redevelopment of PDL, both sections of the exception under paragraph 149 (g) require an assessment to be made on the impact of the proposed development on the openness of the Green Belt.
 16. Except for access, all other matters including layout and scale are not before me in both appeals and these have been reserved for future approval.

¹ Council Refs: 19/0307/FUL & 18/00978/FUL

Therefore, although indicative plans have been submitted, it is difficult to reach a firm conclusion in relation to addressing the necessity that the proposed development would not have a greater impact on the openness of the Green Belt. As any outline permission is 'the' planning permission it would not be appropriate to assess the impact on openness at the reserved matters stage. Nevertheless, the indicative plans form part of the outline applications before me, and I have considered them as such.

17. As detailed towards the outset of this decision, the Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual one. The existing development on the site comprises stables that are relatively modest in size. These stables are also located behind a line of tall trees which largely obscure them from external view. The indicative plans submitted in respect of Appeal A illustrate a 4/5 bed dwelling and garage which I find would have a greater impact on the Green Belt than the existing development in spatial terms. The indicative plans submitted in relation to Appeal B illustrate five dwellings which would have a significantly greater impact on the openness of the Green Belt spatially.
18. From a visual aspect, I find that both proposals would have a significant impact on the openness of the Green Belt. The indicative plans submitted in Appeal A show a dwelling located towards the centre of the site which would be highly visible when viewed from the highway. Appeal B illustrates that two of the proposed five dwellings would be located in close proximity to the road fronting boundary and therefore would be particularly prominent visually. A further three units would be positioned deeper in the site that would also be visible in part. Consequently, I find that both schemes would reduce the openness of the Green Belt in visual terms.
19. As a result, the proposal would not be an exception under the first section of paragraph 149 (g) due to the scheme's greater impact on the openness of the Green Belt.
20. Turning to the second section of paragraph 149 (g), the relevant definition of affordable housing is provided in Annex 2 of the Framework. The applications for both Appeal A and Appeal B indicate that the proposed dwellings would be self-build. Whilst self-build dwellings would potentially be capable of providing affordable housing, there is little before me to demonstrate that the proposal would fall within the scope of that definition. Furthermore, there is no mechanism before me, such as a signed legal agreement, that would enable them to be secured as affordable units in any event. Therefore, the proposed development would also not fall under the second section of paragraph 149 (g).
21. For the reasons above, I conclude that the proposals would not fall within the exceptions outlined in the Framework and would be in conflict with Policy CS.10 of the CS. Accordingly, the proposals are inappropriate development, which, by its very definition, is harmful to the Green Belt and should not be approved except in very special circumstances.

Development Plan strategy for housing distribution

22. Policy CS.15 of the CS relates to the distribution of development in Stratford-on-Avon District which is based on a pattern of balanced dispersal, in accordance with the distinctive character and function of a wide range of sustainable locations. This includes development in Category 3 Local Service

Villages, including Earlswood, taking place on sites identified in a Neighbourhood Plan or through small scale schemes on unidentified but suitable sites within their BUAB (where defined) or otherwise within their physical confines.

23. Policy H3 of the recently made NDP states that proposals for new dwellings within the BUAB of villages, including Earlswood, will be supported in principle. The appeal site however is located outside of the BUAB for Earlswood where proposals for housing will not be supported except for the schemes allocated under Policies H1 and H2 of the NDP, or under the special circumstances allowed under paragraph 149 of the Framework and Policy CS.10 of the CS. For the reasons stated in the previous main issue, I have also identified that the site is not within the physical confines of the village.
24. Policies H1 and H2 relate to specific sites in Earlswood and Wood End and are therefore not applicable to the appeal site which has not been identified for development in the NDP. I have also found that the proposal would fail to accord with paragraph 149 of the Framework and Policy CS.10 of the CS. Accordingly, the proposals fail to comply with Policy H3 of the NDP.
25. As the site is located outside of the BUAB it is therefore considered to be in the open countryside. Policy AS.10 of the CS lists several forms of developments and uses which are acceptable in principle in the countryside. Policy AS.10(a) supports small scale schemes for housing on sites adjacent to a village, where it would meet a need identified by the local community in a Parish or Neighbourhood Plan or other form of local evidence. Policy CS.15 (f) similarly supports small scale community led schemes which meet a need identified by the local community. However, such needs have not been identified specifically for the local community, and as such the proposals cannot draw support from these policies. The proposals would also not consist of a type of development set out within parts (b) to (j) of Policy AS.10.
26. I therefore conclude that the proposals would not accord with the strategy of the development plan for the distribution of housing. For the reasons given above, the proposals would conflict with Policies CS.15 and AS.10 of the CS and Policy H3 of the NDP, which seek to strictly control development in the open countryside and outside of BUABs.

Character and Appearance – Appeal B only

27. The appeal site is located a short distance to the south of the village of Earlswood and includes stables and an access track on what is otherwise a largely open grassed plot of land. The site lies within the Arden Special Landscape Area (SLA) with the area characterised by an attractive rural landscape and a feeling of openness, with views available across the open countryside and in-between sporadic built form.
28. Within this setting, therefore, there is a rapid transition from relatively dense development within the settlement of Earlswood to much more limited, lower density development immediately beyond it to the south. As such, the appeal site marks part of the transition from the settlement edge to open countryside. The rural character and appearance of this setting, reflecting its location within the SLA, is apparent from the open nature of the appeal site itself which offers views view across the site and beyond, open agricultural land opposite the site to the west, the presence of mature trees and hedgerows along many field

boundaries, and sporadic built form generally in the form of dwellings sat within generously sized plots.

29. The submitted site plan shows the five dwellings positioned relatively close together on a conventional plot layout and an internal access road. While layout is a reserved matter, the configuration of the site and detailed access arrangements suggest that this is the most likely layout of the dwellings. As noted above, the appeal site marks a transition from the denser settlement edge to open countryside. The five dwellings would introduce a concentrated form of development that would contrast unfavourably with the lower density development either side. As such, the proposal would harmfully introduce a greater degree of urbanisation and density of development than is characteristic in this location.
30. In addition, the provision of five dwellings on the site would introduce a significant amount of built form which would largely remove any sense of intervisibility through the site, detracting from the open, rural surroundings and harm the character and appearance of the area.
31. For the reasons outlined above, I conclude that the proposed development would cause harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies CS.5, CS.9, CS.12 and AS.10 of the CS and Policies BE1 and NE1 of the NDP which seek, among other matters, to ensure that developments reflect the character and distinctiveness of the locality and minimise impact on the character of the local landscape.

Other Considerations

32. I turn now to address other considerations that, potentially, might outweigh harm arising from inappropriate development in the Green Belt, and the other harms identified above to provide the very special circumstances required to justify a grant of planning permission.
33. The appellant's case is that both Appeal A and Appeal B would be self-build proposals as described under The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). There is no dispute between the parties that there is a lack of policies relating to self-build in the development plan, and that at present the Council do not have sufficient self-build plots identified. The appellant contends therefore that the proposals would contribute towards the shortfall of identified self-build plots.
34. However, a planning condition to secure self-build schemes is not sufficient in this regard, and a section 106 legal agreement or a Unilateral Undertaking would be the most appropriate method to secure the proposals as self-build. As there is no planning obligation before me, there is no mechanism in place to ensure that the proposed schemes would be for self-build. As such, the proposal must be considered as an open market dwelling.
35. The appellant also refers to Policy CS.16 of the CS which, amongst other matters, identifies that 450 homes in total are required across the Category 3 Local Service Villages, of which no more than around 13% should be provided in any individual settlement. This is considered to equate to 58 dwellings per settlement, a total which Earlswood is currently significantly short of. It should be noted however that this figure is a maximum, and in any event, for the reasons outlined earlier in this decision I have found that the appeal site is not

located within the village of Earlswood. Furthermore, the Council can currently demonstrate a healthy housing land supply in excess of 10 years.

36. Nevertheless, Appeal A proposes a single dwelling with Appeal B proposing the erection of five dwellings. Both schemes would therefore make a small contribution to the Council's housing stock. I also acknowledge that the proposals would provide economic and social benefits through the construction of the development and the contributions of future occupiers to the local economy. However, given the scale of the proposals these contributions would be modest and in some cases time limited. As such, I ascribe them limited weight.

Other Matters

37. I note that the application in respect of Appeal A was recommended for approval by Council Officers but was refused by committee. I have also had regard to the report that went to that meeting. This is a legitimate procedure and committee members are not obliged to take the advice of their officers. The fact that the case was determined by members, contrary to the recommendation of officers, does not alter my conclusion on the main issue.

Planning Balance and Conclusion

38. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be supported except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that 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.
39. The other considerations do not clearly outweigh the substantial weight that I have given to the harm that would be caused to the Green Belt, by reason of inappropriateness, including openness, the conflict with the development plan's strategy for the distribution of housing, and the harm to the character and appearance of the area (Appeal B only), that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
40. For the reasons set out above, the proposals would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all other matters raised, I therefore conclude that the appeals should be dismissed.

David Jones

INSPECTOR