



Appeal Decision

Site visit made on 18 July 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/M1005/W/23/3315123

Land at Yew Tree Farm, Woodside, Morley, Derbyshire DE7 6TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to outline planning permission.
 - The appeal is made by Mr Rob Wood against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2021/1194, dated 2 November 2021, was refused by notice dated 1 December 2022.
 - The development proposed is outline planning permission for the erection of a dwelling house and garaging with all matters reserved apart from access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application the subject of this appeal was submitted in outline with all matters reserved except for access for the construction of a single dwelling and garage. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. The proposed new vehicular access to the site is shown on the submitted location plan and site plan. I note that the footprint/location of the proposed dwelling and garage is also shown on those plans, however the precise form and layout of the proposed development would be determined at reserved matters stage were the appeal allowed. I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - whether or not any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether or Not Inappropriate Development

4. The fundamental aim of Green Belt policy in the National Planning Policy Framework (Framework) is to prevent urban sprawl by keeping land permanently open.
5. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate development. A closed list of exceptions are set out, of which includes e) limited infilling in villages, and g) limited infilling or the partial or complete redevelopment of previously developed land, providing that it would not have a greater impact on the openness of the Green Belt than the existing development.
7. The appeal site is an open grassed plot of land with a triangular shape. It is situated partially between a public house and the Yew Tree Farm complex which is now in residential use. There are open fields to the north, east and southwest of the site. The surrounding area is countryside.
8. The proposal would be sited on land which is not currently occupied by any buildings. Given the greenfield nature of the site, the appeal site would not constitute previously developed land and therefore the proposal would not represent a partial or complete redevelopment of the site.
9. The Framework does not define or qualify 'infill' development for the purposes of applying Green Belt policy or guidance. However, the Council has indicated that the Amber Valley Borough Local Plan (2006) describes infilling as 'the completion of an otherwise substantially built-up frontage by the filling of a small gap with usually no more than one or two dwellings.'
10. The Yew Tree Farm complex is a loose knit development of former farm buildings and detached dwellings nestled away from the road. While the proposed development would be situated adjacent to this existing development, the site does not directly adjoin a continuous built-up frontage. Instead, the neighbouring buildings are positioned with space in-between them and set within large plots that border the site, fostering a sense of spaciousness.
11. The public house is set apart from the Yew Tree Farm complex and stands in its own grounds, which includes a sizeable surface car park. The car park wraps around the side and rear of the building, bordering the site's boundary and creating a harmonious transition between the built form of the public house and the rural context of the site and the countryside beyond.
12. It was evident on my site visit that the main settlements lie some distance from the appeal site. There is a clear break in development between the sporadic forms of existing development near to the appeal site and the main settlements. Whilst there is a small cluster of linear development fronting the highway on the western side of the farm complex, this is not physically attached to the appeal site and does not extend out from a main settlement.

13. Consequently, the appeal site is located next to separate pockets of loose knit and sporadic forms of development within a spacious rural setting that does not have the characteristics of a village location. Furthermore, the appeal site itself has a relatively open rural nature that is seen alongside the neighbouring sporadic forms of development, rather than being seen within a built-up frontage. As such, the proposal would not have the appearance of closing a gap in a built-up frontage and would not infill a gap in the built-up part of a village.
14. Accordingly, the proposal would not represent limited infill development. For the reasons given above, it would not fall within any of the exceptions within paragraph 149 of the Framework. Thus, the proposal would be inappropriate development in the Green Belt. It would therefore fail to accord with the Green Belt protection aims of the Framework. I am required to attach substantial weight to the harm caused by virtue of the proposal's inappropriateness.

Openness of the Green Belt

15. Paragraph 137 of the Framework identifies the essential characteristics of the Green Belt as being its openness and permanence. Openness in terms of Green Belt has a spatial and visual aspect.
16. The appeal site is adjacent to existing built form with a loose-knit nature and countryside surroundings. The proposal would reduce the distinct separation currently present between the neighbouring farm complex and the public house, extending into the countryside beyond.
17. The proposal would be sited on land that slopes down from the highway. Nevertheless, views of the proposed development would be possible from the adjacent car park and from within the Yew Tree Farm complex. Views would also be possible from the site's entrance off the highway. If the existing trees and vegetation on the site's boundaries were cut back or died off, then the proposed development would be further exposed to the highway and wider countryside, and therefore cannot be relied upon as a permanent visual barrier.
18. Therefore, the built form of the proposal would diminish the contribution the site makes to the openness of the Green Belt in spatial and visual terms.
19. For the reasons given, there would be moderate harm to the openness of the Green Belt, which would be at odds with the fundamental aim of Green Belt policy. As above, I am required to attach substantial weight to this element of Green Belt harm.

Other Considerations

20. The proposal would make a contribution to the housing supply, albeit a very limited one to which I therefore attach limited weight.
21. There would be short term economic benefits resulting from the construction stage, along with longer term economic and social benefits from the use of local shops, local businesses, and services by the occupants. However, these would be likely to amount to small benefits relating to just a single dwelling and therefore attract limited weight.

Other Matters

22. The submissions have included reference to other planning permissions where development has been permitted in the Green Belt (AVA-2017-0285, AVA-

2017-0184, and AVA-2014-0497). However, these other decisions, including information such as the officer's report, are not before me. Therefore, I do not know the planning circumstances that led to these permissions or their specific relationship with the Green Belt. In any event, I have determined the appeal on its own merits.

Planning Balance

23. The proposal constitutes inappropriate development in the Green Belt and would cause moderate harm to the openness of the Green Belt. Paragraph 148 of the Framework states that substantial weight should be given to this identified harm.
24. The total weight of the other considerations does not clearly outweigh the harm be reason of inappropriateness, and any other harm. Consequently, the very special circumstances necessary to justify the development do not exist.
25. As a result, the proposal conflicts with the Framework and Saved Policy EN2 of the Amber Valley Borough Local Plan (2006) (Local Plan), which, amongst other things, seeks to protect the Green Belt and its openness.
26. However, the Council has indicated that Saved Policy EN2 of the Local Plan is not fully in accordance with the Framework and is therefore out-of-date with regard to paragraph 11d) of the Framework. Nevertheless, part i. of paragraph 11d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As I have explained, there would be harm to the Green Belt that would not be clearly outweighed. This provides a clear reason for refusing the development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

27. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR