



Appeal Decision

Site visit made on 10 October 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/R3705/W/23/3321810

Land Adjacent to Anchor Inn, Hurley Common, Hurley, Atherstone CV9 2LR

- 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 J Gallagher against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2022/0502, dated 25 September 2022, was refused by notice dated 5 December 2022.
 - The development proposed is described as 'Building Plot for 3 new dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address of the appeal site given above is taken from the Council's Decision Notice rather than the planning application form, as it describes the location of the site more precisely than that used by the appellant, and I note that the revised description has been used on the appeal form.
3. The application was made in outline, with matters of access, appearance, landscaping, layout, and scale sought for approval. However, despite landscaping being included at the initial stage of the application process, it is clear from the appeal documents that landscaping is reserved for future consideration. I have determined the appeal accordingly.

Main Issues

4. The main issues are:
 - whether the proposal is 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 development would be in a suitable location having regard to access to services; and
 - whether the 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 the development would be inappropriate

5. 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 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate subject to specified exceptions. One such exception is limited infilling in villages.
6. Policy LP1 of the North Warwickshire Local Plan 2021 (LP) sets out the presumption in favour of sustainable development, including that planning applications which accord with the policies in the plan will be approved without delay, unless material considerations indicate otherwise.
7. Policy LP3 of the LP sets out the extent of the Green Belt in the borough and the exceptions where specific development will be granted planning permission in the Green Belt, including that limited infilling may also be acceptable where a site is clearly part of the built form of a settlement, for example where there is substantial built development around three or more sides of a site.
8. The appeal site comprises a vacant parcel of land which lies at the end of a row of 6 residential properties, between 126 Hurley Common and the pub and its car park. It is contained by a close boarded timber fence to the side and front boundaries. There is open countryside beyond the pub, as well as to the rear of the site and on the opposite side of the road to the front of the site.
9. I note the appellant's assertion that the site is residential in character and is located within the built-up area of the settlement of Hurley Common and, due to the nature of the immediate context, would constitute infilling within the village. The site lies between the settlements of Hurley and Wood End, beyond a defined development boundary, however that in itself is not determinative.
10. Despite being sited between buildings within the existing short row of built development, the countryside surrounding the small group gives the site a relatively open rural context. Moreover, the group is separated from the nearest residential development, which, particularly on this side of the road, is sporadic and spacious in form, by a sizable gap. As such the site does not represent a clear continuous form of built development which is contiguous with the existing buildings in Hurley Common.
11. Consequently, given the dispersed development pattern of Hurley Common overall, the site is characterised as lying within the countryside rather than forming part of a village. Therefore, while the proposal would nevertheless fill a gap within the row of existing buildings, it cannot be regarded as infill within a village. Accordingly, the proposal would not fall within the exceptions listed at paragraph 149 of the Framework and would constitute inappropriate development in the Green Belt.
12. Paragraph 147 of the Framework states that inappropriate development is harmful by definition and should not be approved except in very special circumstances. Paragraph 148 of the Framework indicates that substantial weight must be given to any harm to the Green Belt.

13. I have found the site to be countryside rather than part of the village. Consequently, even though the development would be situated between existing buildings, it would nevertheless lead to encroachment of development into the countryside and as such would conflict with one of the main purposes of the Green Belt, to safeguard the countryside from encroachment.
14. My attention is drawn to the recent Green Belt Studies as part of the Central Bedfordshire Local Plan, which the appellant suggests endorses their view that there would be no conflict with the 5 purposes of including land within the Green Belt. However, the relevance of this to the effect of the proposed development at the appeal site on the Green Belt has not been demonstrated.
15. By virtue of its inappropriateness the proposal would therefore fail to accord with the provisions of Policies LP1 and LP3 of the LP and the aims of the Framework in relation to the protection of Green Belt land.

Openness

16. The fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to prevent urban sprawl by keeping land permanently open. Notwithstanding the presence of the fence to the boundaries of the site, the land is otherwise free from built development. The absence of buildings also allows open views from the highway across the site, with trees, hedges and open countryside as part of the backdrop. Whilst it is narrower than other more substantial gaps in the development along Hurley Common, the site nevertheless forms a space between the neighbouring dwelling and the adjoining car park.
17. In spatial terms, the appeal proposal, for a terraced row of 2 storey dwellings on the site would result in built development where there is presently none. The footprint of the 3 dwellings and their bulk would inevitably lead to a loss of openness of the Green Belt. Having regard to the visual dimension of openness, the proposed dwellings would occupy a prominent position in the street scene and would be readily visible from the highway immediately to the front of the site, as well as in longer distance views on the approach to the site. This would also result in a reduction in the existing level of visual openness of the Green Belt.
18. For the foregoing reasons the proposal would result in a loss of Green Belt openness, both spatially and visually which would give rise to moderate harm to the openness of the Green Belt. In that regard, it would conflict with the Framework's fundamental purposes of including land within the Green Belt. As set out in the Framework I must attach substantial weight to this policy conflict.

Location

19. The Council's refusal reason cites policy LP2 of the LP, which sets out the spatial strategy and settlement hierarchy, and broadly seeks to direct new development to within development boundaries, at a level commensurate with the degree of accessibility to day-to-day services.
20. I note the appellant's suggestion that it could be argued that Hurley Common is an extension of Hurley and consequently it would fall within Category 4: *Other Settlements with a development boundary*, rather than Category 5: *All other*

locations of Policy LP2. However, it is not within my remit to comment on the categorisation of specific settlements, which is beyond the scope of this appeal.

21. As such, for the purposes of this appeal, the site lies beyond a defined development boundary where Policy LP2 indicates that new development will not generally be acceptable, although there may be some instances where development may be appropriately located and would enhance or maintain the vitality of rural communities, including new dwellings in specific circumstances, having regard to other policies in the plan.
22. There is a bus stop a short distance from the site, although I have not been provided with details of the frequency of services, as well as a pub and football and recreation grounds. There are a range of services and amenities within nearby Hurley, including a post office, village hall, convenience store and primary school. However, given the distance from the site and absence of streetlights along Hurley Common and Brickkiln Lane it is likely that this would discourage trips by foot or bicycle to access the services and amenities.
23. It is therefore likely that future residents of the development would be reliant upon private car travel to access services and amenities. Accordingly, there is clear conflict with the broad strategy for the distribution of development and subsequent increased travel by car. In that regard the proposal would fail to comply with Policy LP2 of the LP.

Other Considerations

24. The proposal would contribute positively towards housing supply, albeit this would be modest due to the scale of the development. As the Council can demonstrate a 5 year supply of housing land I attribute this limited weight. Whether or not there is a shortfall in the local plan housing provision, the evidence before me shows the Council to currently have a 5 year supply of deliverable sites, therefore I afford this limited weight.
25. The appellant also suggests there would be benefits in terms of the provision of windfall sites, however LP Policy LP2 sets out that such development would only be supported beyond development boundaries where it would accord with other policies in the plan. There is no specific support for the provision of open market housing in this location by other Policies, as such I afford this limited weight.
26. There would also be short term economic benefits of additional housing during the construction phase as well as longer term during occupation. Whilst these benefits are tempered by the modest amount of development, they nevertheless carry limited weight in favour of the proposal.
27. I note the appellants assertion that there is a desire from local residents to see the site developed, however, this does not in itself render the scheme acceptable. Moreover, it was evident at my site visit that the site is not particularly unsightly, consequently, any perceived benefits with regards to the appearance of the land would be of very limited weight.
28. The appeal submissions indicate that the dwellings could be self-build or affordable housing units. However, there is no substantial evidence in that regard and in the absence of any mechanism to restrict the properties as such, I cannot afford this any material weight. Moreover, even if the site was historically sold as a building plot, prior to the designation of the Green Belt, or

it were to be allocated for development in the future, these factors are not determinative to the appeal.

29. The Council do not raise any objection to the proposals in design terms, or in relation to the living conditions of the occupiers of neighbouring properties, and I have no reason to disagree. The appeal submissions also indicate that there would be no net loss to biodiversity. However, these are normal requirements of development and therefore neutral matters. It is also suggested that the proposal would enhance biodiversity, however in the absence of any specific details, I afford this very limited weight.
30. Matters raised by the appellant relating to the events leading up to the determination of the planning application fall beyond the scope of the assessment of the appeal proposal.

Green Belt Balance and Conclusion

31. I have found that the proposal would constitute inappropriate development in the Green Belt, which is by definition, harmful. In addition, it would also cause moderate harm to the openness of the Green Belt and would conflict with the purposes of including land within the Green Belt. Moreover, there is clear conflict with the development plan and the broad strategy for the location of development. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
32. I give some weight to the contribution that the proposal would make to housing supply, as well as to the economic benefits of the proposal. Limited weight is afforded to potential biodiversity benefits and enhancements to the appearance of the site.
33. Therefore, the substantial weight to be given to Green Belt harm, and any other harm, is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances.
34. For the reasons given above the appeal is dismissed.

E Worley

INSPECTOR