



Appeal Decision

Site visit made on 7 May 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 3 June 2024

Appeal Ref: APP/P1805/W/23/3324998

10A & 10B Dale Hill, Blackwell, Bromsgrove, B60 1QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr G Vale of Foxhaven Developments Ltd against the decision of Bromsgrove District Council.
 - The application Ref is 22/00570/FUL.
 - The development proposed is two detached bungalows.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Bromsgrove District Council against Foxhaven Developments Limited. This application will be the subject of a separate Decision.

Preliminary Matter

3. The revised National Planning Policy Framework ('the Framework') was published on 20 December 2023, after the appeal had been made. However, as the changes it contains are not material to the main issues in this decision, the case of the appellant has not been prejudiced by not being able to comment on the revised Framework in its appeal statement. I have therefore determined the appeal on the basis of the statements and comments that have been received.

Main Issues

4. The main issues in this appeal are:
 - whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework ('the Framework') and development plan policy;
 - the effect of the proposal on the character and appearance of the area;
 - the accessibility of services and facilities from the appeal site by sustainable modes of transport;
 - the effect of the proposed development on highway safety;
 - whether future occupiers would experience acceptable outdoor living conditions in terms of noise and disturbance;

- the effect of the proposal on the living conditions of nearby residents, with regard to overlooking and outlook;
- whether the proposed development would be safe for future occupiers with respect to its proximity to a gas pipeline; and,
- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Inappropriate development

5. The appeal site is located within the West Midlands Green Belt. The Framework seeks to protect the Green Belt from inappropriate development. Paragraph 154 of the Framework advises that the construction of new buildings within the Green Belt should be regarded as inappropriate, other than for certain listed exceptions. One of these exceptions is limited infilling in villages. Policy BDP4 of the Bromsgrove District Plan supports limited infilling in Green Belt settlements.
6. As the appeal site is situated amongst a scattering of houses along Dale Hill, which is located within the open countryside to the north of the village and Green Belt settlement of Blackwell, the proposed development would not benefit from this exception.
7. Towards the rear of the site, there are the beginnings of a building built to a height of two brick courses above the level of the ground floor slab. In a previous application dismissed on appeal in 2019, the issue of whether a dwellinghouse on the site would not be inappropriate development, due to the proposal representing the redevelopment of previously developed land, was considered. It was found it would not because the quantum of development proposed would have a greater impact on openness than existing development on the site. As the same analysis applies in this case, the proposal in this appeal would not benefit from this exception either.
8. The proposed development would therefore not constitute one of the exceptions in paragraph 154 of the Framework to the construction of new buildings in the Green Belt. As a result, it would constitute inappropriate development, contrary to policy BDP4 of the Bromsgrove District Plan and paragraph 154 of the Framework. Such development, by definition, would be harmful to the Green Belt as described in paragraph 152 of the Framework.

Character and appearance

9. Dale Hill is a narrow lane enclosed by tall hedgerows, trees and a loose assortment of houses. The appeal site is set back from the lane behind a field gate and is a long plot which is relatively narrow towards its entrance. As I noted earlier, the beginnings of a building built on the site are present. However, as it is located towards the rear of the site, it is out of view from the lane and in public, as well as private views of the site, the appeal site forms part of the mature landscaped surroundings of the lane and is not harmful to the character and appearance of the area.

10. The area is characterised, predominantly, by a mixture of large detached and more modest semi-detached two storey dwellings that are largely out of view of each other due to mature landscaping. As a result, whilst bungalows are not as commonly seen in the area, the low profile of these buildings, their separation, and the space between the proposed buildings and nearby buildings, would be sufficient for them to complement the existing pattern of built development in the area.
11. The proposed bungalows would be plain fronted, rectangular buildings whose front elevations would only be enlivened by a simple gable. In form and appearance, they would be very reminiscent of the style of bungalows designed in the latter half of the twentieth century for suburban housing estates. As a result, they would appear out of place on a rural plot off a country lane within the Green Belt. Consequently, in the views that would be experienced by those people visiting the site, or from the access to the neighbouring properties on its northern side, the proposed development would cause moderate harm to the character and appearance of the area and would not constitute good design. This would be contrary to policy BDP19 of the District Plan and section 4.2 of the Bromsgrove High Quality Design supplementary planning document, which require the protection of the character and appearance of a locality through high quality design that respects local design features.

Accessibility

12. Dale Hill is a narrow, unlit rural lane with limited forward visibility and no footway. As a result, although the edge of Blackwell is located not far away, this village and the limited services and facilities it has to offer are not safely accessible on foot or by bicycle. Furthermore, there is no reference to a bus service passing the appeal site. As a result, even taking account of the Framework's advice that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the appeal site is poorly located in terms of its access to services and facilities by sustainable modes of transport. Accordingly, it would be contrary to policy BDP1 of the District Plan which, amongst other matters, requires that accessibility is taken into account.

Highway safety

13. The site makes use of an existing access that was originally used in association with Dale Hill Farm, and the point at which it meets Dale Hill is shared by the access serving the neighbouring properties, No 10 and the Coach House. As the use of this access by the neighbouring dwellings may have started many years ago its safety may well not have been assessed as part of a planning application. However, as the Dale Hill Farm use of the appeal site has ceased, and the appeal application would result in new development, the safety of the access needs to be assessed.
14. Visibility at the junction of the site access with Dale Hill is restricted in both directions, and the scope to improve visibility by trimming vegetation or adjusting the visibility splays on land owned by the appellant is limited. Whilst it is possible that the narrow nature of the lane means that on-coming traffic would reduce their speed accordingly, in the absence of a speed survey it is not possible to determine whether this is the case, and if vehicles do reduce their speed, how much they reduce it by.

15. As a consequence, in the absence of such information, it is not possible to determine whether use of the access for the dwellings proposed would be safe, or could be made safe. The proposed development would therefore be contrary to paragraph 114 of the Framework. This is a matter of significant weight against the proposal.

Living conditions of future occupants

16. The appeal site is located close to an embankment serving the M42 motorway. A Noise Risk Assessment and Acoustic Design Statement was submitted before the application was determined. Its results show that noise levels in the garden areas serving both proposed dwellings would significantly exceed the upper daytime guideline value for noise contained within BS8233:2014 'Guidance on sound insulation and noise reduction for buildings'. However, the report does not contain any proposals for landscaping or boundary treatments that would reduce noise to an acceptable level. As a result, the submitted evidence leads me to the view that the future occupiers of the proposed dwellings would experience poorer living conditions than it is reasonable to expect when in the garden of a new build property in the countryside.
17. Neighbouring properties on the northern side of Dane Hill are likely to experience similar levels of outdoor noise. However, it appears that these dwellings either pre-date the motorway or the current version of the British Standard. As a result, the circumstances under which these other dwellings were permitted appear to be materially different to the appeal proposal. Consequently, reference to this matter has not altered my findings in relation to this issue.
18. For the reasons given above, and in the absence of any evidence submitted in relation to this appeal that outdoor noise levels could be mitigated as part of the proposed development, I find that the proposal would cause moderate harm to the living conditions of future occupiers, contrary to policy BDP19 of the District Plan which seeks high quality design.

Living conditions of neighbours

19. The rear elevation of one of the two proposed bungalows, referred to on the plans as unit B, would be located close to the boundary separating the site from the rear gardens of 12 and 14 Dale Hill. The outlook from the bedroom window within the rear elevation of the bungalow would be partly offset in relation to the rear elevation of No 14 and so would not have a direct view of it. Similarly, the kitchen window would mainly have a view of the rear part of the back garden serving No 12. With a separation distance between the partly facing elevations of No 14 and the proposed bungalow, unit B, based on the submitted block plan of slightly more than 21m, the scheme therefore would not result in harmful overlooking.
20. The front elevation of unit B would face the side of the long front garden serving No 10. Owing to its orientation at right angles to the front elevation of No 10, distance forward of it and the screening effect of intervening mature planting, the privacy of the occupiers of No 10 would not be materially adversely affected by unit B. As unit A would be located between No 10 and the Coach House to the rear, and all three would be facing in the same direction, privacy would also not be harmed by this bungalow. The proposal would therefore comply with paragraph 135 of the Framework and section 4 of the

High Quality Design supplementary planning document in relation to the living conditions of neighbours.

Gas safety

21. A gas pipeline is present beneath the northern corner of the appeal site within what would be the rear garden serving Unit A. On the basis of the site plan the proposed bungalow would be separated by more than 14m from the pipeline, as required by the company responsible for the gas network, and so would not interfere with it. Furthermore, the removal of permitted development rights, which would be a matter that could be secured by condition, would prevent building work that would place the gas main at risk. Accordingly, I therefore conclude that the proposed development would not represent a significant gas safety risk, and so would comply with policy BDP1 of the District Plan in that it would be compatible with this use.

Other considerations

22. I have found the proposal would be inappropriate development in the Green Belt and thus should not be approved, except in very special circumstances. It is therefore necessary to consider the grounds put forward by the appellant, to determine whether there are any material considerations which would amount to very special circumstances that would outweigh the harm by reason of inappropriateness, and the harm that I have identified to the character and appearance of the area, highway safety, the living conditions of future occupiers and the poor accessibility of services and facilities from the appeal site by sustainable modes of transport.

Dereliction of the site

23. The site contains the base of a brick built building. However, as I have noted earlier, as it is located to the rear of the site out of public view, and much of the site is overgrown, the condition of this derelict plot does not harm the character and appearance of the area. This consideration is therefore of no material weight in favour of the appeal.

Costs incurred in relation to the site

24. Costs incurred in relation to a site as a result of being unable to comply with a previous permission and subsequent refusals form part of the risk associated with development. Moreover, as Planning Practice Guidance¹ makes clear, it is matters that affect the public interest which must be considered rather than private interests. For this reason I attach little weight to this matter in favour of the appeal.

Housing land supply and the provision of housing

25. The Council has less than a 5 year housing land supply which is impairing its ability to deliver sufficient housing for its area. The so called 'tilted balance' contained in paragraph 11 d of the Framework though does not apply to this case because the scheme would be contrary to the Framework's policy on the Green Belt. Whilst the proposed scheme would only provide two dwellings

¹ Planning Practice Guidance Paragraph: 008 Reference ID: 21b-008-20140306 'What is a material planning consideration?'

towards addressing the shortfall, its contribution is a consideration of notable weight in favour of the appeal.

Conclusion

26. The proposal represents inappropriate development, which by definition, would be harmful to the Green Belt as described in paragraph 152 of the Framework. Paragraph 153 of the Framework advises that substantial weight should be given to any harm to the Green Belt. I have also found that there would be material harm to the character and appearance of the area, highway safety, the living conditions of future residents and to the principle of the accessibility of services and facilities from the appeal site by sustainable modes of transport. Clearly therefore, the degree of harm caused would be considerable and I attach substantial weight to the totality of harm that would be caused.
27. I find that the other considerations put forward by the appellant fall well short of clearly outweighing the harms identified and thus the very special circumstances necessary to justify the development do not exist. As such the proposal would be contrary to Green Belt policy contained within the Framework and policies BDP1 and BDP4 of the District Plan. The appeal should therefore be dismissed.

Ian Radcliffe

Inspector