



Appeal Decision

Site visit made on 29 May 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2024

Appeal Ref: APP/M1005/W/24/3338758

Land off Main Road, Pentrich, Derbyshire DE5 3RE

- 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 & Mrs Stokes against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2022/1101, dated 14 December 2022, was refused by notice dated 17 January 2024.
 - The development proposed is four bedroom detached dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for a four bedroom detached dwelling at Land off Main Road, Pentrich, Derbyshire DE5 3RE in accordance with the terms of the application AVA/2022/1101 dated 14 December 2022, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs Stokes against Amber Valley District Council. This application will be the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal would be inappropriate development in the Green Belt.

Reasons

4. The site is an area of unkempt land, located between two properties on Main Road in the village of Pentrich. The site is approximately 15m wide by 34m deep raised slightly above the highway. The appeal proposal seeks to construct a detached four bedroomed property, utilising building materials consistent with the locality. The site is located within the Green Belt.
5. Saved Policy EN2 of the Amber Valley Borough Local Plan (2006) (the LP) has been relied upon by the Council, as far as it relates to Green Belts. This is then shored up by the relevant Green Belt guidance set out in the National Planning Policy Framework (the Framework).
6. I find that the LP policy EN2 is no longer consistent with the aims of the Framework, which has also undergone several iterations since its inception. As such, given the discrepancies between the Policy and the Green Belt guidance set out in the Framework, I have little option than to attach limited weight to policy EN2.

7. There is disagreement between the parties as to whether this proposal constitutes limited infilling, which is one of the exceptions to Green Belt policy as set out in Paragraph 154 e) of the Framework.
8. At present, the appeal site has development to either side, and across the highway. Much has been made of the agricultural land to the rear, but there is no evidence to show that this was agricultural land in the recent past, and in fact the appeal site does not appear to show consistency with that land, and the site is demarcated separately from links to that land.
9. Overall, the appeal site is a small parcel of land that will be contained by other buildings in the locality. As such I consider that it would be infill development within the context of its location and therefore one of the exemptions to Green Belt development as set out in Paragraph 154 of the Framework.
10. The Framework is clear that the government attaches great importance to Green Belts and that their essential characteristics are their openness and permanence. Openness is an essential quality of the Green Belt. It has a visual dimension as well as a spatial aspect.
11. The appeal proposal would see the introduction of a single dwelling and indicates the position of the building on the site. As stated previously this is a single plot, on a site identified as "infill" and I consider that, given the level of development that will surround it, the appeal proposal would not be highly visible within its context. There would be some domestic paraphernalia but these would not be large or visually dominant.
12. I therefore consider that this proposal would not have a harmful effect on openness and the function and purpose of the Green Belt in this location.
13. As I do not find that the proposed development would be inappropriate, there is no requirement to question whether very special circumstances are generated in this instance.

Other Matters

14. I have noted the comments of interested parties, but I have identified the appeal site as being an infill development, which is listed as one of the exceptions to inappropriate development in the Green Belt, and I have found in favour accordingly. All other matters have either been considered by Consultees or the Council in the Officer Report.

Conditions

15. I have taken into consideration the Conditions suggested by the Council and find them to be fair and reasonable and have replicated them in the Schedule below.
16. Conditions 1 and 2 are in the interests of proper planning. Conditions 3 and 4 are in the interests of ecology whilst conditions 5, 6 and 7 are in the interests of the prevention of contamination.
17. Conditions 8 and 9 are in the interests of highways safety. Condition 10 is in the interests of the amenities of the locality whilst condition 12 is in the interests of ecology.

Conclusion

18. For the reasons given above, having regard to the development plan and all relevant material considerations, I conclude that the appeal is allowed.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The hereby approved development shall be carried out in accordance with the following approved documents and drawings:

Application Form

01001 P2 SITE LOCATION PLAN

01002 P1 SITE PLAN - AS EXISTING

01003 P4 SITE PLAN - AS PROPOSED

01004 P1 SITE LEVELS - AS PROPOSED

02001 P6 PLANS - AS PROPOSED

03001 P2 ELEVATIONS - AS PROPOSED

04001 P1 SITE SECTION - AS PROPOSED

04002 P1 BUILDING SECTION - AS PROPOSED

3. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. Such approved measures shall be implemented in full.
4. A Landscape & Biodiversity Enhancement Plan (LBEP) shall be submitted to, and approved in writing by, the Local Planning Authority prior to any development above slab level. Photographs of the agreed features in situ shall be submitted to the Local Planning Authority and the features shall be maintained in perpetuity.
5. No development shall commence until:
 - i. A letter from a competent person confirming that a coal mining risk assessment intrusive investigation did not encounter any coal mine features at shallow depth and that the ground gas risk does not require further investigation shall be submitted to and accepted in writing by the Local Planning Authority.
 - ii. Should the coal mining risk assessment intrusive investigation encounter coal mine features at shallow depth, a ground gas investigation and risk assessment shall be carried out and a report submitted to and accepted in writing by the Local Planning Authority.
 - iii. Where the approved risk assessment (required by ii) identifies ground gases posing unacceptable risks, a detailed scheme to address the risks shall be submitted to and accepted in writing by the Local Planning Authority.

Any remedial actions required by the report submitted in fulfilment of (iii) above shall be undertaken and documented in a Verification Report which shall be submitted to and accepted in writing by the Local Planning Authority prior to the occupation of any structure.

6. No development shall commence until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

7. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
8. Prior to any other works commencing, the whole of the site frontage adjacent Main Road shall be cleared and maintained thereafter clear of any obstruction exceeding 600mm in height relative to the road level for a distance of 2.5m into the site from the back of carriageway in order to maximise the visibility available to drivers emerging onto the highway.
9. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.
10. No development above slab level shall take place until there has been submitted to and approved in writing by the Local Planning Authority details and/or samples of the materials and finishes to be used for the external elevations and roof of the proposal, and the development shall be carried out with those materials.
11. Prior to any development, measures for the protection of the hedgerow which forms the southern boundary shall be submitted to and approved in writing by the local Planning Authority. The approved measures shall be maintained during the construction phase of the development.

END OF SCHEDULE