



Appeal Decision

Site visit made on 18 June 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/P1805/W/23/3336184

7 Alcester Road, Finstall, Bromsgrove, Worcestershire B60 1EL

- 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 Mike Bond against the decision of Bromsgrove District Council.
 - The application Ref is 23/01009/FUL.
 - The development proposed is extension of dropped kerb and creation of parking area for 7 Alcester Road. Creation of a new access with the demolition of existing garage and rear sheds and erection of 2 x 2 bedroom dormer bungalows with garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the appeal form and the decision notice. This description slightly expands upon that on the application form, to describe the dormers as bungalows with garages. This more accurately describes the development.
3. Subsequent to the Council issuing its decision, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Therefore, having considered the parties' respective cases and the nature of the revisions, in light of the principles of natural justice it has not been necessary to seek the views of the main parties on this matter. I have referred to the updated paragraph numbers.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including assessing the effect of the development on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the development on ecology;
 - the effect of the proposed access on highway safety;

- the effect of the proposed development on the future occupiers of proposed Plot 1 and the existing residents of No 3 Alcester Road, with regard to privacy; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

5. The appeal site is located within the West Midlands Green Belt. The Framework identifies that 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. It outlines that the construction of new buildings, other than in connection with a small number of exceptions set out in paragraphs 154 and 155, should be regarded as inappropriate in the Green Belt.
6. One exception is limited infilling in villages, although there is no definition in the Framework of what constitutes limited infill, or a village. However, the site lies within the village envelope of Finstall, and I saw on the ground that Finstall has a distinct identity and a consistent form of development along with a range of services and facilities, and therefore consider that it comprises a village for the purposes of the Framework.
7. While Finstall may be a village, for the proposal to qualify as an exception to inappropriate development under paragraph 154 (e), it should represent limited infilling. In my opinion, infilling would comprise the filling in of space by built development between buildings within a planning context. The appeal scheme would not be limited infill as the proposed dwellings would retain expansive gaps to the rear and side. Rather, it would be back land development. Consequently, having assessed the site-specific circumstances on the ground, I do not consider that the proposal comprises limited infilling in a village and therefore does not find exception under paragraph 154 (e) of the Framework.
8. A further exception is the limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings). This is providing the development would not have a greater impact on the openness of the Green Belt than the existing development, or would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
9. The proposed development would see the demolition of an existing garage and various single storey structures including dog kennels. The Council consider that the site is considered to meet with the definition of previously developed land as per the glossary of the Framework. However, the glossary excludes residential gardens within built-up areas from the definition of previously developed land. The appeal site lies within the built-up village envelope of Finstall, and as such it is excluded from the definition of previously developed land.

10. The appellant has stated that the proposal would add 2 affordable small bungalows to the property stock. However, I note that the application form states that the development is for market housing. Furthermore, I have not been presented with any details regarding an assessment of housing need in the borough. Consequently, on the basis of the lack of information before me, I cannot confidently conclude that the proposal would meet an identified affordable housing need. Moreover, there is no mechanism before me to ensure that the properties would remain as low-cost homes below market value. As such, there is no way of ensuring that the dwellings would meet the definition of affordable housing in the Framework. Therefore, regardless of whether the proposal were to be considered as previously developed land, it would not meet the exception under the final part of paragraph 154(g) of the Framework.
11. The Framework indicates that openness is an essential characteristic of the Green Belt. Openness in terms of the Green Belt has a spatial as well as a visual aspect. The evidence before me indicates that the parties agree that the combined floor area of the existing garage and single storey structures that would be demolished totals 107m². The proposed floor plans for the two plots would total 238m². I have no reason to disagree with these figures. This would be a significant increase at over double the original floor area. The proposed dwellings would be of a greater volume, footprint, height and bulk than the existing buildings. As such, the introduction of the new dwellings would have more of an impact on the openness of the Green Belt in spatial terms than the existing circumstances.
12. The proposed dwellings would be located to the rear of No 5 Alcester Road and No 7 Alcester Road (No 7). To the rear of the proposed development lies the A448, which although elevated in relation to the appeal site, is well screened and would not afford views to the proposed scheme. However, the development would be visible from its proposed access point along Alcester Road, and would also be seen from vantage points along Pikes Pool Lane. Due to the increased size and scale of the proposal, it would be more prominent than the existing single storey buildings. As such, the proposal would have a greater visual impact on the Green Belt when compared to the existing circumstances.
13. Consequently, in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation. While the harm would be moderate and relatively localised, this would be contrary to the Framework where it states that an essential characteristic of Green Belts are their openness.
14. Therefore, when judged against national and local policy the proposal would be inappropriate development in the Green Belt. Paragraph 152 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. In accordance with paragraph 153 of the Framework, substantial weight is given to any harm to the Green Belt. The proposal would therefore conflict with Policy BDP4 of the Bromsgrove District Plan 2011-2030 (DP) (2017) insofar as it sets out exceptions to inappropriate development in the Green Belt, and the Framework.

Character and appearance

15. The appeal site is located within the village envelope of Finstall, a pleasant village set within the Green Belt. At the rear of the site the A448, whilst elevated, is well screened by mature trees and foliage. The surrounding area is characterised by residential properties of varying size and styles. Two new dwellings are being constructed on land to the east of No 7.
16. The surrounding residential properties, although varying somewhat in type and design, front Alcester Road. Properties to the north of Alcester Road have front gardens or parking areas and rear gardens. Properties on the southern side of the road in the vicinity of the appeal site are set back behind a grass verge, but likewise face the road with front gardens, parking areas and rear gardens. This regular rhythm of development gives a pleasing, harmonious and cohesive feel to the street scene.
17. I noted from my site visit that there were no visible examples of backland development on Alcester Road in the vicinity. Whilst the design and material of the proposed dwellings would be acceptable, the proposal would introduce built form into an area at variance with the urban grain and being untypical for the locality.
18. I conclude that the proposal would harm the character and appearance of the area. It would therefore conflict with Policies BDP1 and BDP19 of the DP which seek to ensure that proposals would not result in a detrimental impact on visual amenity, and enhance the character of the local area. Furthermore, it would conflict with paragraph 135 of the Framework which highlights that development should be sympathetic to local character, including the surrounding built environment.

Ecology

19. The proposal would lead to the demolition of existing buildings, and the removal of a number of trees. The rear of the site is rural and verdant in character, and it is unknown whether the removal of the trees and buildings would lead to the loss of habitat for protected species. Paragraph 186 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
20. Under the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended) I am required to consider whether any European Protected Species would be affected by the proposed development. Also, I am required to consider whether any measures would be effective in mitigating any harm.
21. An ecological survey cannot be secured by planning conditions, as this approach would not comply with guidance set out within the ODPM Circular 06/2005¹. Paragraph 99 of this circular explains that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure that ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. No such circumstances have

¹ Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system

been demonstrated in this case and it is therefore a reasonable expectation that the survey be carried out prior to any grant of planning permission.

22. Without a survey being carried out, I am unable to make an informed decision about the effect of the proposal on protected species, including assessing whether any mitigation measures would adequately safeguard or compensate for any harm caused to protected species by the proposal.
23. It has therefore not been adequately proven that the construction of the dwellings and the use of the site for residential purposes would not have unacceptable effects on protected species. The proposal is therefore contrary to DP Policy BDP21 which seeks to achieve better management of Bromsgrove's natural environment by expecting developments to protect and enhance core areas of high nature conservation value. The proposal would also conflict with Circular 06/2005 and the aim of the Framework to protect and enhance biodiversity.

Highway safety

24. To access the proposed development, the existing garage for No 7 would be demolished, with 2 parking spaces provided for No 7 within the boundary of that property. Access to the proposed new dwellings would be from Alcester Road, crossing the pedestrian footway, similar to surrounding dwellings. I noted from my site visit that good visibility could be achieved in both directions and whilst there is a 30mph speed limit along this section of Alcester Road there are no street lights.
25. The submitted plans indicate a vehicular access point 3.5m wide which would not be wide enough for two vehicles to pass. As the proposal is for two dwellings, on occasion this could necessitate vehicles wishing to enter and exit the site waiting and manoeuvring on the public highway. Such manoeuvres may result in conflict between other highway users, to the detriment of highway safety. Manoeuvres within the road would interrupt the free flow of traffic and would increase the risk of accidents. Regardless of whether vehicles exit the site in a forward or reverse gear, and the 30mph speed restriction, such movements could lead to conditions prejudicial to highway safety.
26. Worcestershire County Council Highways Authority highlighted that to allow for the development of the two properties, the access road should be 4.1m for the first 15m into the site. To accommodate this, the appellant would need to relocate the boundary fence of No 7 and reconfigure the two parking spaces at No 7 to be in tandem rather than alongside each other.
27. Whilst the appellant has indicated their willingness to increase the size of the proposed access by 0.6m to provide the required width, no additional plans detailing amendments to the access point have been submitted to show that the necessary changes could be achieved. Without such plans I cannot fully assess whether the changes necessary to provide safe access to and from the site would be possible.
28. In conclusion, for the above reasons, and based on the evidence before me, the proposed access would have an unacceptable effect on highway safety. As a result the proposal would not comply with Policy BDP16 of the DP which seeks to ensure that developments incorporate safe and convenient access. Moreover, the proposal would conflict with Paragraphs 114 and 115 of the

Framework which seek to ensure that developments provide safe and suitable access and do not have an unacceptable impact on highway safety.

Privacy

29. The Council have raised concerns that there would be overlooking from the rear windows of No 3 Alcester Road (No 3) into the side garden of proposed Plot 1, and vice versa. I have not been provided with any separation distances between No 3 and Plot 1.
30. Due to the orientation of Plot 1, although its main garden would be to the side of the proposed new property, this would be to the north of the dwelling when viewed from the direction of Alcester Road. The garden area would therefore be screened somewhat by the proposed dwelling itself.
31. There would be a 1.8m high boundary fence between the garden of Plot 1 and No 3, which would prevent the occupiers of Plot 1 and No 3 from being able to look directly into each other's gardens. Whilst it is likely that part of the garden area of Plot 1 could be seen at an angle from the upstairs windows of No 3, and vice versa, intervisibility between properties and neighbouring gardens is not uncommon.
32. Due to the orientation of the proposed dwelling in relation to No 3, and the subsequent screening of the garden, I conclude that the proposal would not lead to an unacceptable level of harm to the privacy of the occupiers of No 3 or the future occupiers of Plot 1. The proposal would therefore comply with Policies BDP1 and BDP19 of the DP which seek to ensure that development proposals have regard to compatibility with adjoining uses and the impact on residential amenity, and meets people's needs and expectations from their homes. It would also comply with paragraph 135 of the Framework which seeks to ensure that developments have a high standard of amenity for existing and future users. Furthermore, it would comply with guidance contained within the High Quality Design Supplementary Planning Document (2019) which highlights how developments can avoid impacting on neighbours privacy and amenity.

Other considerations

33. The Council is unable to demonstrate a five-year deliverable supply of housing land. Nevertheless, the presumption in favour of sustainable development and the 'tilted balance' addressed by paragraph 11 of the Framework, would not be engaged in this instance. This is due to paragraph 11(d) of the Framework setting out that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 to paragraph 11 clarifies that the policies would include those in the Framework relating to land designated as Green Belt.
34. The proposed development would conflict with paragraphs and policies from the Framework related to Green Belt, which for the reasons set out provide a clear reason for refusing the development proposed. As a consequence, even though the Council is shown to be unable to demonstrate a deliverable 5-year supply of housing land, the 'tilted balance' would not be applicable.
35. Nonetheless, the proposal would support the Government's objective of significantly boosting the supply of homes. The provision of an additional two

smaller dwellings to the local housing market would be an undoubted social benefit of the proposed development. There would be economic benefits relative to the construction phase and as future residents feed into the local economy. The proposed dwellings would have solar panels, EV charging points, cycle racks and heat pumps, thus having environmental benefits. I have given these considerations moderate weight.

36. Planning permission has been granted for two new dwellings on a site immediately adjacent to the appeal scheme.² I recognise that this may appear as frustrating to the appellant and indicate a lack of consistency in decision making. However, each application must be determined on its own merits and site-specific circumstances. I saw from my site visit that these proposed dwellings have a different relationship with surrounding development. They would be filling a gap between buildings along a built-up frontage, and thus would be considered as limited infilling. Limited infilling is one of the exceptions listed in paragraph 154 of the Framework and as such is not inappropriate development in the Green Belt. The Council approved that application on this basis, and as such did not have to consider the effect of the scheme on the openness of the Green Belt.
37. As detailed above, the appeal scheme would not be limited infill as the proposed dwellings would not be infilling a gap between built development and would retain expansive gaps to the rear and side. The effect on openness and the size of the existing buildings on the site is therefore relevant to the proposal. I have determined that it would have a greater impact on the openness of the Green Belt than the existing development, and therefore it would be inappropriate development in the Green Belt. I therefore afford minimal weight to the fact that planning permission has been approved for two dwellings on an adjacent site.
38. The appellant has stated that the proposal would provide homes for the increasing elderly population. However, I have no evidence before me regarding housing needs, or that the age range of potential purchasers of the bungalows would be restricted. I therefore give this consideration minimal weight.

Other Matters

39. I note that the tree officer's report raised no issues. I also note that there is no issue with loss of outlook or overshadowing to the existing properties. However, these are requirements of planning policy and they carry neutral weight. I also note that there have been no objections from neighbours, but this is not determinative.

Green Belt Balance and Conclusion

40. I outlined above that substantial weight should be given to any harm to the Green Belt. I have found harm to the Green Belt in terms of its openness and by reason of the proposed development's inappropriateness.
41. The Framework confirms that inappropriate development should not be approved except in very special circumstances. It goes on to confirm that very special circumstances will not exist unless the potential harm to the Green Belt

² 22/01233/FUL

- by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
42. I have found harm to the Green Belt by reason of the proposed development's inappropriateness, harm to the openness of the Green Belt, harm to the character and appearance of the area and harm to highway safety. I have also found insufficient evidence to demonstrate that the proposal would not harm local ecology.
43. I have found that there would not be harm to privacy. However, this lack of harm is a neutral factor in this balance.
44. Weighed against this are the other considerations set out above. For the reasons given, I afford minimal weight to the fact that approval has been given to a development adjacent to the appeal site and that the proposal could provide homes for the elderly population, and moderate weight to the contribution that 2 new dwellings would make to the housing land supply.
45. Consequently, those other considerations would not, in their totality, clearly outweigh the harm that I have identified. Therefore, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The development would thus conflict with the Green Belt protection aims of the Framework and Policy BDP4 of the DP.
46. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan.
47. Consequently, the appeal is dismissed.

L C Hughes

INSPECTOR