
Appeal Decision

Site visit made on 31 July 2024

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref: APP/D4635/W/23/3334822

Land west of 301 Bridgnorth Road, Wolverhampton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Richard Sanders (VanBrugh Construction Ltd) against the decision of Wolverhampton City Council.
 - The application Ref 22/00528/OUT, dated 5 May 2022, was refused by notice dated 12 June 2023.
 - The development proposed is the erection of 6no. self-build dwellings with access and amenity areas, creation of children's playground and open space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for future consideration except for access and layout. I have determined the appeal on this basis and have treated any plans showing details of reserved matters of appearance, landscaping and scale as illustrative.
3. The initial submission of the planning application was made in outline for the erection of 11 houses with access and amenity areas, creation of children's playground and open space. However, during the course of the determination of the application, agreement was reached between the Appellant and the Council to substitute the submitted plans and amend the description of the development, as shown in the banner heading above, to an outline application for the erection of 6 self-build plots. I have therefore determined this appeal on the basis of the revised submission as subsequently determined by the Council.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Policy Framework and other changes to the planning system. The proposed reforms are draft and therefore may be subject to change before the final document is published. The consultation closes on 24 September 2024. Also on 30 July, the Secretary of State made a written ministerial statement (WMS) entitled "Building the homes we need". The WMS is an expression of Government policy and is, therefore, capable of being a 'material consideration' in appeal casework.
5. Although, the consultation and draft NPPF do not constitute Government policy or guidance, they are capable of being material considerations. The main

parties were invited to provide comments in relation to the above documents prior to my determination of this appeal. I have taken into account the views of the parties and the WMS in my determination of this appeal.

Main Issues

6. The main issues are:

- Whether the proposal is inappropriate development in the Green Belt.
- The effect on the openness of the Green Belt and the character and appearance of the area.
- The effect on designated heritage assets and in particular the setting of 'Wightwick Manor and Gardens', which are Grade I and II Listed, and whether the proposed development would preserve or enhance the character or appearance of the Wightwick Bank Conservation Area.
- The effect on ecology and nature conservation.
- The effect of the proposed development on highway safety.
- Whether sufficient information has been submitted with the application in order to determine the extent to which the site is suitable for development without being at risk from flooding or causing a flood risk elsewhere.
- If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

7. The appeal site is located within the designated Green Belt. Paragraph 154 of the National Planning Policy Framework (the Framework) sets out that the construction of new buildings, other than in connection with a small number of exceptions, should be regarded as inappropriate in the Green Belt.
8. The proposed provision of six self-build dwellings would meet none of the listed exceptions as set out in paragraph 154. Consequently, the proposed development would amount to inappropriate development within the Green Belt which would be contrary to saved Policy G2 of the Wolverhampton Unitary Development Plan (2001 – 2011) (UDP). Paragraph 152 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness of the Green Belt , character and appearance

9. The appeal site comprises part of a relatively open area of overgrown grassland located immediately to the south of Bridgnorth Road from which it is separated by a substantial hedgerow. It forms part of a prominent gap between residential properties to the west and a dental practice to the east. The northern side of the road is substantially developed.
10. The site also forms part of a noticeable gap in more dense urban development on Sabrina Road to the west and Castlecroft Lane to the east and offers views

of the more expansive open area of Green Belt to the south. In this regard, I do not share the Appellant's view that the appeal site makes a limited contribution to the Green Belt.

11. The appeal site forms an integral and distinctive part of open countryside extending southwards from this part of Bridgnorth Road within a broader setting otherwise dominated by development. It thus makes a strongly positive contribution to the character and appearance of the area.
12. A fundamental characteristic of Green Belts, as set out in paragraph 142 of the Framework, is their openness and their permanence. The construction of six dwellings on this site would result in built development where there is presently none. The effect of the appeal scheme would be to add to the volume of built development on the south side of Bridgnorth Road and erode a substantial part of the current gap between the dental practice and 'Long Knowle'.
13. Although the proposed development would be situated between existing buildings, the site is currently part of an open field. The current spacious and open nature of the site between the two existing buildings would be seriously undermined by the location and bulk of the new dwellings. It would result in the diminution of the established gap. Thus, it would inevitably significantly reduce the openness of this part of the Green Belt in both spatial and visual terms.
14. Even with proposed landscaping in place, the proposal would have an urbanising impact on the site and lead to encroachment of development into the countryside. It would unacceptably consolidate built development in the area as result of the significant reduction in the gap between the existing buildings and the consequential loss of part of the existing field that contributes to the character and appearance of the area. This would impact on one of the five purposes of Green Belts which is to safeguard the countryside from encroachment.
15. The Council suggest that the removal and realignment of part of the hedgerow to create the site access would be detrimental to the character and appearance of the area. However, I do not find this visual change would be of such material extent to significantly contribute to an adverse effect on the character of the area.
16. There is already a field access gate to the site in the vicinity of the proposed access road. Furthermore, both sides of Bridgnorth Road in the locality are characterised by accesses located between substantial boundary walls and hedgerow vegetation. As such, I do not consider that the loss of part of the hedge would itself cause a compelling detrimental change to the character of the area, particularly as it would be replanted. However, by virtue of the width of the proposed access road, it would undoubtedly enable views of the proposed development to be obtained from Bridgnorth Road and expose the unacceptable visual harm that built development would have on the appearance of the field and the wider setting of the Green Belt.
17. Taking the above factors into account, I conclude that the development would lead to a significant loss of openness and would not safeguard the countryside from encroachment. In addition, it would cause demonstrable harm to the character and appearance of the area. Consequently, the proposal would conflict with the provisions of Policy D6 of the UDP, Policy CSP2 of the Black

Country Core Strategy (2011) (BCCS) and Policy TNP14 Part A of the Neighbourhood Plan for the Tettenhall Wards (2014 – 2026) (Neighbourhood Plan).

Heritage Assets

18. Wightwick Manor and Gardens (Grade I and Grade II listed) are located in an elevated position to the northeast of the appeal site. In addition, the Wightwick Bank Conservation Area is located immediately opposite the appeal site on the northern side of this part of Bridgnorth Road.
19. Due to the topography of the Conservation Area, Wightwick Manor and Gardens are largely concealed and inclusive views of the whole house are only possible to the viewer once in close proximity to the building. I observed at my site visit that longer views of Wightwick Manor from the south, outside of the Conservation Area, are minimal, but I do accept that these may be affected by seasonal changes to tree cover.
20. The Wightwick Bank Conservation Area Character Appraisal and Management Plan indicates that the appearance of the riverside area to the south of the Conservation Area has remained largely unchanged since the turn of the century. Furthermore, it identifies that the approach to the Conservation Area travelling west on Bridgnorth Road is important as it pre-emptes the architectural style of Wightwick Manor for visitors to the National Trust property.
21. Although views of Wightwick Manor and Gardens may be limited, the appeal site nonetheless forms an important part of the setting of these heritage assets. The open and spacious nature of the site also contributes significantly to the setting of this part of the Conservation Area containing the Listed Building and Gardens.
22. As set out above, the proposal would diminish the rural character of the land to the south through the loss of the noticeable open gap in existing development and the resultant urbanisation of the area. In my view, the proposed development would therefore fundamentally and unacceptably change the open and spacious rural character and appearance of the appeal site which would harm the significance and setting of the Listed Building and Gardens. The proposal would also fail to preserve the character and appearance of the Conservation Area.
23. In the parlance of the Framework, I consider the impact on the significance of the designated heritage assets would be less than substantial. Nevertheless, any harm should require clear and convincing justification. In this case, the benefits, outlined below in this Decision, would not outweigh the great weight that should be given to the designated heritage assets conservation.
24. The proposal would therefore be contrary to saved Policy HE5 of the UDP and Policy ENV2 of the BCCS. These policies, among other things, seek to ensure that new development preserves the character and appearance of Conservation Areas and also preserves or enhances the setting of the historic environment.

Ecology

25. The appeal site forms part of a Site of Local Importance for Nature Conservation (Identified as Land off Bridgnorth Road SLINC – WV003), which

forms part of the wider Smestow Valley Site of Importance for Nature Conservation (SINC). The hedgerow forming the northern site boundary with Bridgnorth Road is also classed as a BAP Priority Habitat.

26. The Supporting Statement submitted with the planning application identifies that an ecological survey is required to identify the areas to be retained due to their ecological importance and define mitigation measures that may be required. It also identifies that an 'Extended Phase 1 Habitat Survey' and 'Protected Species Assessment' are necessary. At the time the Council determined the planning application no further information, in the form of any ecological survey or assessment, was provided.
27. Although further ecological information has been submitted with the appeal, this reiterates the need for the above survey and assessment. This information also identifies that the course of Smestow Brook is classed as a BAP Priority Habitat and that standard trees in the vicinity of the Brook contain features that are suitable for roosting bats. It also identifies that outside the site boundary is evidence of protected species occupation which will require consideration within the development proposal.
28. I have taken into account the Appellant's contention that there will be a significant gain in biodiversity as a consequence of the introduction of new hedge and tree planting, enriching the existing floristic poor grassland and by the introduction of a new water feature along the southern boundary of the site. However, in the absence of any habitat survey, I have no evidence of the ecological importance of areas within the site that would be lost as a consequence of the proposed development or the extent of any biodiversity gain that would be achieved. Furthermore, although mention is made of the use of the Defra Biodiversity Gain Index, I have no evidence of how this may have been used or any results that may have been obtained.
29. The proposed development would involve the loss of part of the SLINC and the removal of part of a BAP Priority Habitat in order to achieve the highway visibility splays. I have insufficient evidence to determine the ecological implications of such losses, by means of an Extended Phase 1 Habitat Survey; no evidence of the impact that the proposal may have on protected species, by means of a Protected Species Assessment; and, only general principles of mitigation measures with no evidence of any quantification of the extent that such measures may contribute towards any biodiversity net gain.
30. Taking the above factors into account, the proposal would involve the loss of part of a BAP Priority Habitat and part of the SINC. There is insufficient evidence to adequately demonstrate the extent of ecological harm that would be caused to these recognised ecological habitats or the quantifiable extent of any proposed mitigation measures may have in offsetting such harm. In addition, there is insufficient evidence to determine the effect on protected species.
31. For the above reasons, the proposal would be contrary to the provisions of saved Policy D12 of the UDP, Policy ENV1 of the BCCS and Policy TNP13 of the Neighbourhood Plan. These policies, amongst other things, require that adequate information must be submitted for proposals which may affect any designated site or important habitat and that SINCs and SLINCs are protected from development proposals which could negatively impact upon them.

Highway Safety

32. The Council contends that the application lacked sufficient detail regarding parking for the playground and public open space, access and visibility splays. Although I do not have any plans showing the detailed design parameters of the access junction with Bridgnorth Road, the application was accompanied by a Transport Statement (TS), albeit based on the original submission for eleven dwellings, and includes a plan showing visibility and manoeuvring details (Ref P1639/11).
33. The TS provides details of the design parameters for the proposed access. It also provides details of the required visibility splays with reference to Manual for Streets, Manual for Street2, the Design Manual for Roads and Bridges (DMRB), surveyed vehicle speeds along this part of Bridgnorth Road and HGV tracking details. The achievement of appropriate visibility at the new junction would require the re-alignment of part of the hedgerow forming the northern boundary of the site. However, subject to these works, the TS demonstrates that visibility conforming to the minimum standards, as set out in the DMRB can be achieved and that highway safety on Bridgnorth Road would not be compromised.
34. The Planning Officer's Report suggests that the Council, in its role as Highway Authority, raised no objections to the proposed development but queries were raised regarding the use of visitor car parking spaces. Taking into account the content of the TS and the comments from the Highway Authority, I do not consider that it can be reasonably argued that the proposal is lacking in detail regarding the access design and visibility splay attainment. An appropriate planning condition could be imposed requiring more detail design drawings of the proposed access, were I minded to allow this appeal. However, based on the evidence before me, I am satisfied that the TS adequately demonstrates that a safe and suitable access can be achieved with Bridgnorth Road.
35. I have no evidence to suggest that the proposed car parking arrangements for the new dwellings may be insufficient or that there would be any conflict with the Council's published car parking standards for residential development. The proposal would provide for six visitor parking bays which the Council contend may be insufficient should the proposed playground be used by the local community with a consequence that overspill parking could occur on the access road.
36. In my view, the proposed playground is relatively small and, as such, it is unlikely to become a visitor attraction for use by a significant number of residents in the surrounding community who would wish to travel to it by car. Furthermore, there are many examples nationally of playground areas which serve residential developments that do not have dedicated parking provision.
37. By virtue of the relatively small size of the proposed playground, I consider that its use would likely be restricted to children who would reside in the proposed dwellings and those residing in the immediate vicinity of the site who could reasonably walk to use the facilities. Consequently, I consider it unlikely that the proposed visitor spaces would be occupied by cars associated with the use of the playground to an extent which would cause any overspill that would be materially detrimental to highway safety.

38. Taking the above factors into account, I do not consider that it can reasonably be argued that the proposal would be detrimental to highway safety. Consequently, there would be no conflict with saved Policies AM12 and AM15 of the UDP and Policy TRAN2 of the BCCS. These policies, amongst other things, require developments to contribute towards improving road safety and ensure appropriate parking provision.

Flood risk

39. The proposed built development is largely limited to land within Flood Zone 1 (low probability of flooding) but the southern boundary of the site lies within Flood Zone 3 (high probability of flooding) which is prone to regular flooding. As such, the Council contends that the introduction of a significant footprint of permanent development on the site could increase the risk of flooding and a proposed drainage strategy was not submitted with application to demonstrate that the proposal would not exacerbate flood risk.
40. The submitted Flood Risk Assessment (FRA) confirms that the proposed locations for built development are as far as possible away from Smestow Brook and would be located outside the zone of surface water flooding risk. It also identifies that the southeast of the site has been designed to provide open ground which would act as a flood plain to water flowing onto the area after any overtopping of an existing culvert at Bridgnorth Road. The FRA contains a number of design recommendations including the use of Sustainable Urban Drainage Systems as part of the drainage strategy. It further states that the open ground would act as a Flood Compensation Basin which would allow overland runoff to flow to the southeast part of the site and thus alleviate both local flooding and flooding downstream of Smestow Brook.
41. On reviewing the FRA, the Environment Agency raised no objections to the proposal, subject to recommendations regarding finished floor levels, and noted that all planned development had been limited to land within Flood Zone 1. I have no other evidence to suggest that the FRA, and the recommendations contained therein, may be incorrect or insufficient to demonstrate that any flood risk is incapable of being managed or that the proposal is likely to exacerbate flooding elsewhere.
42. In the absence of any other evidence to the contrary, I have attached significant weight to the FRA and the views of the Environment Agency. I accept that a detailed drainage strategy has not been submitted. However, I am satisfied that the submission of such strategy could be made the subject of a suitably worded planning condition, were I minded to allow this appeal, based on the recommendations set out in the FRA. Furthermore, the evidence provided suggests that the appeal proposal would likely provide a degree of local benefit in alleviating some elements of local flooding rather than exacerbating any flood risk.
43. In conclusion on this matter, I do not consider that the proposal has failed to demonstrate that flooding issues on site will not be exacerbated. In this regard the FRA is clear that the implementation of the recommendations contained therein would reduce the sites overall flood risk to 'very low'. Consequently, there would be no conflict with Policy ENV5 of the BCCS. Amongst other things, this policy requires development to be steered to land with a low probability of flooding and should demonstrate that the level of flood risk associated with the site is acceptable.

Other considerations

44. In addition, to the main issues set out above, I have taken into account the concerns raised by a number of local residents regarding, amongst other things, the impact on the free flow of traffic, fear of crime and concerns regarding the potential design of the dwellings. Although these matters have been carefully considered, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council's reasons for the refusal of planning permission does not identify any objection to the appeal scheme for these other reasons.
45. The Appellant suggests that there is a current shortfall in 5-year housing land supply in Wolverhampton and that this shortfall was reported as being 8,698 homes. However, neither party has provided any comment or details of any shortfall in the submitted evidence in this appeal nor has the matter been raised in any detail in support of the proposed development. Consequently, I am unable to confirm, determine or quantify the extent of any current shortfall in 5-year housing land supply. Irrespective of the current position, the proposal would make a modest contribution to housing land supply to which I have attached substantial weight.

Planning Balance

46. I recognise that both the existing Framework and the Government's Draft Framework seek to significantly boost the supply of housing land. I have taken into account the views of both main parties in this regard. However, the appeal proposal would be inappropriate development that would be harmful to the Green Belt by definition. Further Green Belt harm would arise due to the loss of openness and to the purpose of safeguarding the countryside from encroachment. There would be other harm to the character and appearance of the area, heritage assets and ecology.
47. The proposal would provide for 6 self-build housing units and, in this regard, it would gain some support from Paragraph 70 (b) of the Framework which supports small sites to come forward for self-build and custom-build housing. I note that there are 67 people currently registered on the Wolverhampton Self and Custom Build Register and that no sites were granted planning permission for self-build development in 2022. The appeal proposal would provide an opportunity for those on the Register to deliver self-build housing.
48. In addition to the contribution to boost the supply of housing generally, I also recognise that there are other benefits, both socially and economically, associated with the proposed development, notably, the provision of some alleviation to local surface water flooding and an increase in the quality of open space provision within this part of Wolverhampton. However, given the scale of development, any benefits associated with these factors would be limited. Nonetheless, I have attributed moderate weight to these benefits of the proposal.
49. There is a lack of any detailed evidence in this appeal regarding 5-year housing land supply and the extent to which the provisions of paragraph 11 of the Framework may be engaged. However, the Framework requires that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the harm by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations.

50. I have carefully considered the benefits cited in support of the proposal, including the contribution to housing land supply. Even if I were to be persuaded that the provisions of paragraph 11 are applicable, the policies in the development plan which relate to the Green Belt remain consistent with the Framework. I conclude that, taken together, the benefits do not outweigh the substantial weight to be given to Green Belt harm. Consequently, the very special circumstances necessary to justify the proposed development do not exist.

Conclusion

51. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR