



Appeal Decision

Site visit made on 17 September 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2024

Appeal Ref: APP/W3710/W/24/3339133

358 Orchard House, Nuneaton Road, Bulkington , Bedworth, Warwickshire CV12 9RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ian Cox against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref is 039931.
 - The development proposed is single storey self-build dwelling (outline). All matters except access to be reserved.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme is for outline planning permission with detailed approval sought for access. Matters relating to layout, scale, appearance, and landscaping are reserved for future approval. I have had regard to the submitted block plan but only as far as it provides an illustrative indication of the layout of the proposed dwelling.
3. The Council have referred to Policy BE3 of the Nuneaton & Bedworth Borough Plan 2011-2031 (the BP) within the decision notice. However, this policy relates to sustainable design and construction and sets policies relating to the design of a development. Consideration of the design is reserved for later approval. Consequently, I find that Policy BE3 of the BP is not material to the appeal before me. I also note that the Council has not referred to this policy within their statement of case.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - 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 required to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site comprises the rear garden to the host dwelling, Orchard House, it lies within an area outside of any of the defined settlements set out in the BP. Therefore, for planning purposes, the site is within open countryside. The site is also within the Green Belt.
6. Policy DS3 of the BP seeks to restrict development outside the settlement boundaries and the proposal would not fall within any of the limited forms of development set out as exceptions to Policy DS3. Consequently, the appeal proposal would not comply with Policy DS3 of the BP.
7. Paragraph 154 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in villages.
8. Policy DS7 of the BP reflects Paragraph 154 of the Framework in resisting development in the Green Belt, except for that which is considered by national planning policy as not inappropriate. Although Policy DS7 does not include any reference to allowing limited infilling in village it defers to the Framework. Moreover, the list of developments that Policy DS7 deem as not inappropriate are set out in the supporting text rather than the main body of the policy.
9. There is no definition of either village or limited infilling within the Framework or the BP. However, there is no argument between the main parties that the site lies within the village of Bulkington, albeit outside of the identified settlement boundary. Consequently, the findings of the Moss Farm and Cecil Lodge Cottage appeals¹, and the reference to the David Tate judgment², quoted by the appellant are not determinative in my decision. I also acknowledge that infilling within the Green Belt does not have to be within defined development boundaries.
10. Orchard House is part of an area where the housing is street fronting, ribbon development, leading out from the main built area of the village of Bulkington. There are ancillary buildings and commercial developments between and behind the houses. However, the housing is all road fronting and I have not been provided with any evidence of similar forms of back land housing development to the appeal scheme.
11. The proposed new dwelling would be built behind the existing house and, in that regard would be out of context with the character and pattern of the housing development in this part of Bulkington. The proposed dwelling would not be built within the continuous built frontage. Although the site is surrounded by buildings, which I saw from viewing the site from the first floor of the existing dwelling, the houses only enclose one side of the site. The buildings around the other sides of the site are commercial, agricultural, or ancillary to the dwellings, the same as to the rear of many of the properties in this part of Bulkington and the same as both of the previously approved developments on the appeal site³.

¹ APP/F2360/W/19/3238776 & APP/P1940/W/17/3183388

² David Tate v Northumberland County Council (2017) Case number CO/4198/2016

³ 007718 for erection of cattery to rear & 003523 for erection of garage with games room above

12. The appellant has drawn my attention to other housing built at depth which is also outside the settlement boundary and within the Green Belt. The houses on Claremont Close and The Birches are on the edge of the main built-up area of Bulkington and are in the part of the village where housing is set on small estate roads leading off the main village roads. Claremont Close and The Birches are, therefore, in a different context to the appeal site. The new house between 244 and 246 Nuneaton Road is within this same built-up context and was also built on a parcel of land forming a gap between two existing houses.
13. Avon Close is in the area where the housing is ribbon development along the road. However, from my observations these houses pre-date the adoption of the BP and I have no evidence to show why this development was considered acceptable at the time. Moreover, I have considered the appeal before me against the adopted development plan.
14. I visited the other developments that the appellant has referred to in their evidence⁴ and noted that these either formed redevelopment of previously developed land and would, therefore, have been considered under a different exception within the Framework, or constitute infilling of gaps in otherwise built-up frontages. Consequently, all of the sites referred to by the appellant are materially different to the appeal before me. Taking into account the North Wiltshire judgment⁵, I am, therefore, not bound by any of the decisions referred to.
15. As noted by the appellant in quoting the Stockport Road and Greenland Cottage appeals⁶, whether or not a proposal would constitute limited infilling in a village for the purposes of the Framework, is a question of fact and planning judgement for the decision maker, dependant on an assessment of the position on the ground. A new dwelling on the appeal site would not be built in a gap in an otherwise built-up frontage and would not follow the built context of the housing in this part of Bulkington. For these reasons, in my judgement, the proposed new dwelling would not constitute infill development.
16. The proposed development would, therefore, be inappropriate development in the Green Belt when assessed against Policy DS7 of the BP and paragraph 154 of the Framework. It would also fail to comply with Policy BE3 of the BP as it lies outside of the development boundary and does not form any of the exceptions listed in the policy.

Openness of the Green Belt

17. Openness is an essential characteristic of the Green Belt, and it has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
18. Notwithstanding that there were two previous approvals at the appeal site neither of these buildings were on the site at the time of my visit. The appeal site is currently undeveloped garden land and is, therefore, open. However, due to the presence of other buildings and structures around the appeal site the contribution it makes to the openness of the Green Belt as a whole is limited.

⁴ Corner House Garage, 453 Nuneaton Road and Coventry Road

⁵ North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137

⁶ APP/W4223/W/22/3306367 & APP/R4408/W/20/3247092

19. Although the appeal proposal would not be readily seen from public vantage points, it would be seen from the neighbouring properties. The visual impact of the development would be limited but would still result in adverse visual harm to the openness of the Green Belt.
20. Openness also has a spatial aspect which is an absence of development, rather than an absence of a view. The appeal proposal would introduce development onto the garden area of the dwelling where there is currently no development. However, as with the visual impact the presence of other structures around the site would limit the spatial impact on the openness of the Green Belt.
21. Albeit limited in both respects the proposal would have both a spatial and a visual impact which would result in loss of the openness of the Green Belt. This would be contrary to Paragraph 142 of the Framework which identifies the essential characteristics of Green Belts as their openness and their permanence.

Other considerations

22. The appeal site is close to Bulkington and is accessible along a lit footway. There are also bus stops close to the site and within easy walking distance and the evidence provided indicates regular bus services in both directions. Bulkington is recognised as a settlement by Policy DS2 of the BP which defines the village as having the tertiary role for housing, shopping, leisure, and local services. In these respects, the development would be relatively sustainable for a rural location, even though it is outside the defined settlement boundary. A dwelling on the site would make a modest contribution to rural housing and support the viability of local facilities.
23. The proposal would provide a self-build plot for the appellant and add to the mix of housing in the area, in accordance with Policy H1 of the BP. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
24. The appellant has provided figures showing that the Council has granted permission for 69 self-build plots, delivered 44 of those and has a demand requirement of 39. However, I do not have any details of whether the demand figure is a cumulative total or which base periods this figure is taken from. I also have no substantive evidence of whether any of the 69 units granted permission were for any of the 39 individuals on the list. Even though the Council has not challenged the appellant's figures I cannot be certain that the appellant's submission conclusively demonstrates that there is an undersupply of self-build units.
25. The provision of self-build permissions should not be seen as a maximum and the demand figure will likely increase over future base periods. There is also little evidence that the permissions would all be built out. The provision of one additional unit of this type would accord with Paragraph 63 of the Framework through providing housing for people wishing to commission or build their own homes.
26. Nevertheless, given that this is only one dwelling, even if there were to be found to be a shortfall of the supply of this form of housing in the area, the

proposal would only provide a limited benefit to the supply. Moreover, I have no means before me, such as a signed legal agreement, to secure the development as self-build. I am, therefore, not able to give this benefit any weight in the decision.

27. The development would have associated social and economic benefits both during and post construction and contribute towards the delivery of housing. The proposal would also provide opportunities for energy efficiency, sustainable drainage and other sustainable design elements. However, given the small scale of the development these benefits would be limited.
28. I also note the reasons why the appellant wants a smaller, single storey, dwelling, but these personal circumstances carry limited weight.

Planning Balance

29. I have found that the proposal would comprise 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. Paragraph 153 states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
30. In this case, I have found harm to the Green Belt from the inappropriate development and also harm to the openness of the Green Belt. Albeit that the harm to openness is limited, I attach substantial weight to these harms, in accordance with paragraph 153 of the Framework. Even if the dwelling is in a sustainable location the other harm is the conflict with the spatial strategy which is a matter to which I also attach substantial weight. The other considerations noted above only carry limited weight, for the reasons set out. They do not, therefore, clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

31. For the reasons given above the appeal should be dismissed.

K Townsend

INSPECTOR