



Appeal Decision

Site visit made on 26 September 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2024

Appeal Ref: APP/M1005/W/24/3345242

21 Woodside, Morley, Ilkeston, Derbyshire DE7 6DG

- 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 Martin Latimer against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2022/0272, dated 23 March 2022, was refused by notice dated 8 January 2024.
 - The development proposed is a dwelling with associated parking, access and garden (all matters reserved except access).
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council confirmed during the appeal process that reasons 2 and 3 of their reasons for refusal relating to coal mining and arboricultural matters had been satisfactorily addressed, subject to appropriately worded planning conditions. I have no reason to disagree. The main issues are therefore;
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate Development

3. The appeal site comprises land that has the appearance of undeveloped pasture land. The site is associated with a detached dwelling, known as Woodside Cottage and its garden. Woodside Cottage is some 67 metres from its nearest neighbour No 19 Woodside, adjacent to which the proposed dwelling would be built. There is a clear visual separation from the remaining development on that side of the road. Opposite the site is the entrance driveway of No 10, known as Moorcroft. Moorcroft is set back notably from the road and largely screened from public view by vegetation. The dwellings form

part of a dispersed settlement pattern with small groups of dwellings separated by open spaces in a rural setting. There is no settlement boundary.

4. The site is located within the Green Belt. Paragraph 152 of the NPPF states that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the NPPF identifies that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions. Criterion e in paragraph 154 of the NPPF identifies limited infilling in villages as an exception.
5. The NPPF does not define limited infilling. The supporting text of policy EN2 of the Amber Valley Borough Local Plan (Local Plan) identifies limited infilling as the filling of small gaps between built development.
6. A single dwelling would represent limited development. It would also be located adjacent to No 19 Woodside and the row of neighbouring dwellings beyond. However, in the context of the appeal site and the size of the gap between the appeal site and Woodside Cottage I am of the view that the development would not represent the filling of a small gap. It would not therefore comply with paragraph 154(e) of the NPPF.
7. No case has been made that the development would fall under any of the other exceptions in paragraph 154 of the NPPF. I therefore conclude that the proposal would be inappropriate development in the Green Belt. The proposal would conflict with the referenced parts of the NPPF. It would also conflict with Policy EN2 of the Local Plan which only supports appropriate development in the Green Belt.

Openness

8. Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. The Planning Practice Guidance states that assessing the impact of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case. An assessment of openness is capable of having both spatial and visual aspects.
9. The application is in outline and so matters such as scale and form are not yet known. The appellant has indicated that the development would be set lower than the road, minimising the visual impact of the dwelling. Nevertheless, the site is currently free from development and as such the development would have a greater impact on the openness of the Green Belt in both visual and spatial terms. The development would not therefore preserve openness and would amount to inappropriate development. The development would be permanent in nature and would result in a loss of openness of the Green Belt. It would conflict with the requirements of the NPPF. The development would cause harm to the Green Belt to which I give significant weight.

Other Considerations

10. Paragraph 153 of the NPPF states that substantial weight should be given to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

11. The development would lead to the construction of an additional residential dwelling. However, the small scale of the scheme would mean a minimal contribution to the housing land supply which limits the weight I attribute to it.
12. The appellant has referred to other Green Belt development in support of their case. I have limited details before me of those schemes and the circumstances in which they were granted planning permission. However, the schemes referenced are in different locations where the arrangement between neighbouring dwellings is different. Some of the schemes relate to replacement dwellings rather than a new dwelling, as in the case before me. Not all the sites cited are within the Green Belt. I do not therefore consider the schemes presented by the appellant to be directly comparable to the case before me. In any event, each case is determined on its own merits and that is what I have done.

Planning Balance and Conclusion

13. The development would constitute inappropriate development in the Green Belt which by definition is harmful. The NPPF requires that substantial weight be attributed to harm to the Green Belt. For the appeal to succeed the combined weight of other considerations must clearly outweigh the harm caused. The other considerations do not clearly outweigh the totality of the harm caused and so very special circumstances to justify the development do not exist.
14. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR