

Appeal Decision

Site visit made on 24 September 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/R1845/W/24/3338779

Wyre Mill House, Mill Lane, Wolverley, Worcestershire DY11 5TR

- 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 & Mrs Alec Evans against the decision of Wyre Forest District Council.
 - The application Ref is 23/0657/FUL.
 - The development proposed is 'erection of a local affordable self build house'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of this appeal, the appellants submitted a signed unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 5 August 2024 (the s106). The Council was given the opportunity to comment on the s106, and any response was taken into account in this decision.

Main Issues

3. The main issues are:
 - whether the proposal constitutes inappropriate development in the Green Belt, having regard to any relevant development plan policies and the National Planning Policy Framework (Framework);
 - the effect of the proposal on the openness of the Green Belt;
 - whether the appeal site is an appropriate location for the proposed development, with regard to the development strategy of focusing development on urban areas;
 - whether it has been demonstrated that the proposal is acceptable with respect to flood risk; and
 - whether any harm by 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

4. Policy DM.22 of the Wyre Forest District Council Local Plan 2016-2023 (adopted April 2022) (Local Plan) sets out a number of circumstances under which development will be permitted in the Green Belt (criteria a. to g.). It is not submitted that the proposal meets any of those criteria, and I have no reason to conclude otherwise. In addition, the policy requires that housing development in the Green Belt will not be permitted unless one of four criteria apply. Criterion ii. supports affordable housing for local community needs where it accords with Policy SP.11 of the Local Plan (addressing rural housing needs). This is consistent with the exception to inappropriate development at paragraph 154.f) of the Framework.
5. In that regard, the appellants intend to occupy the proposed development. As such, whilst it is designed to meet their specific health needs, it would not amount to an affordable dwelling in the first instance. Also, the s106 includes a commitment intended to secure the house as an affordable one, in the event that it is let. That establishes that if a qualifying resident has not come forward after a period of three weeks of advertising the dwelling for affordable rent, the owner will use best endeavours to ensure that prospective tenants are eligible for affordable housing.
6. However, without involvement of a registered provider, the s106 does not provide sufficient certainty that the owners would be able to accurately determine the eligibility of potential occupants for affordable housing. Therefore, whether or not there is a local community need, the s106 would not ensure the house provides affordable accommodation for subsequent occupants. Accordingly, the proposal does not satisfy criterion ii. of Policy DM.22.
7. Criterion iv. of Policy DM.22 allows for limited infilling in villages. That is consistent with the Green Belt exception at paragraph 154.e) of the Framework. However, the appeal site is shown to be located circa 80 metres outside of Wolverley settlement boundary as defined in the Local Plan. Moreover, it comprises a parcel of undeveloped land, separated from the main built up area of Wolverley by a rural lane and playing field. Consequently, although there are a small number of houses to the south of the appeal site, its location is characteristic of open countryside. As such, it would not satisfy criterion iv. Criteria i. and iii. of Policy DM.22 relating to agriculture and forestry, and extensions, are not relevant to the proposal.
8. Therefore, the proposal would constitute inappropriate development in the Green Belt, having regard to relevant development plan policies and the Framework. Both the Local Plan and the Framework require such Green Belt proposals to be justified by very special circumstances. I return to this subsequently.

Openness

9. The proposal would result in a single storey building on a site where there is currently none. The footprint of the proposed dwelling and associated residential paraphernalia would inevitably lead to a spatial and visual

reduction in openness. The reduction in openness would be limited given the modest scale of the proposal.

Location of development

10. Policy SP.2 of the Local Plan establishes principles for delivering the Council's spatial development strategy. Given the site's location outside of the settlement boundary, part 4 of Policy SP.2 applies. This seeks to limit development in such locations to certain development types. This includes rural exception sites, with reference to Policy SP.11 of the Local Plan. Criterion 1.a. of SP.11 is for such proposals to provide housing that remains affordable in perpetuity. However, as reasoned above, it is not sufficiently certain that the proposal would comprise affordable housing. Thus, it would not satisfy criterion 1.a. of Policy SP.11.
11. In addition, Policy SP.11 criterion 1.b. states that proposals should not exceed the identified local need. The Council submits that the parish housing need as established in the 2018-2028 housing needs survey for Wolverley and Cookley (published 2018) has since been met by various permissions granted over the last five years. Furthermore, the Council has identified other bungalows for sale in the locality that could meet the appellants' need for accessible accommodation. No substantive evidence indicates otherwise. Accordingly, whilst I recognise the appellants' desire and potential cost savings of building on their own land, evidence before me indicates that the proposal would exceed the identified local need, contrary to criterion 1.b.
12. As a result, the location of the proposal cannot be supported as a rural exception site under Policies SP.11 or SP.2. Also, it does not comprise any of the other types of development permitted outside of settlements under part 4 of Policy SP.2. For instance, it is not a rural worker dwelling, replacement dwelling or employment development. Moreover, it does not relate to an agricultural, forestry or renewable energy project and it has not been demonstrated that it would comprise a development type permitted in open countryside by any other policy of the Local Plan.
13. Therefore, the appeal site is not an appropriate location for the proposal, with regard to the development strategy of focusing development on urban areas. As such, it would conflict with Policy SP.2. Amongst other matters, this seeks to protect open countryside. Furthermore, it would conflict with Policy SP.11 as it would not comprise a rural exception site.

Flood Risk

14. The appellants submit that the proposed dwelling would be sited within flood zone 1 with reference to the Environment Agency flood risk maps for planning. Nevertheless, the appellants' Flood Risk Assessment (FRA) (May 2023) acknowledges a lack of detailed modelling for the area. Also, that low-level sections of the site are within flood zone 2. This is consistent with drawing reference 4294-01A appended to the appellants' FRA which indicates that the proposed site access would be within flood zone 2. However, no sequential test has been submitted to give consideration to the siting of the proposal in an area of lower flood risk. Moreover, no robust evidence has been provided that would indicate an exemption from applying the sequential test would be justified here.

15. Furthermore, the location of some of the appeal site within flood zone 2 raises doubts over the ability of the proposal to achieve development that provides safe access and egress for its lifetime, without increasing flood risk elsewhere. As such, even if a cautious approach is adopted in respect of the finished floor levels of the proposed dwelling relative to the estimated flood levels, it is unclear whether safe access/egress would be maintained for the lifetime of the development. This is a particularly important consideration given the mobility issues of the intended future occupants of the proposal.
16. Accordingly, it has not been demonstrated that the proposal is acceptable with respect to flood risk. Thus, the proposal would conflict with Policy SP.31 of the Local Plan. Amongst other matters, this requires that proposals are located in accordance with the sequential test, and will be safe from flooding for their lifetime, including in respect of access and egress. Policies SP.30 (sewerage systems and water quality) and SP.32 (sustainable drainage systems) are referenced in the Council's decision but are not relevant to this main issue.

Other Considerations

17. The development would achieve an incremental increase in housing supply in support of the Council's housing delivery aspirations set out in Local Plan Policy SP.1, and the Government objective of boosting the supply of homes. Small sites can make an important contribution to housing supply and can be developed relatively quickly. Also, the proposal is submitted as a self-build house which would be secured through the completed s106. Councils are required to give enough suitable development permissions to meet the identified demand for such self and custom build housing, in accordance with the requirements of the Self Build and Custom Housebuilding Act 2015 (as amended). The Council submits that sufficient permissions for self build housing had been granted at the time of making its decision. No substantive evidence indicates otherwise.
18. In any event, the appeal site is not within or adjacent to an existing settlement, contrary to Policy SP.12 criterion c. Furthermore, the in principle support for self build housing under Policy SP.12 of the Local Plan is qualified by the need for compliance with other Local Plan policies. In light of the concerns in respect of flood risk, the provision of a self build house in this location attracts limited weight.
19. Similarly, Policy SP.13 of the Local Plan offers in principle support for proposals that meet the needs of older people and those with special housing requirements. The proposal is intended to address the specific health needs of the appellants in this instance. However, as reasoned above, it appears reasonably likely that alternative accommodation in the locality could meet their needs. No robust evidence is before me to the contrary. Moreover, provision of purpose-built housing should not be at the expense of ensuring that it is safe for its lifetime. Therefore, the nature of the proposed housing attracts limited weight in the circumstances of this case.
20. The proposal would provide a limited amount of short-term employment through the construction of the development and some further benefits would result from the additional support to the vitality of the local

community from the future occupants of the house. Given the scale of the proposal I afford this benefit moderate weight.

Conclusion

21. The proposal would be inappropriate development and by definition would harm the Green Belt. It would also harm Green Belt openness to a limited extent. I afford substantial weight to the Green Belt harm. In addition, the location of the development is not acceptable with regard to the development strategy and there remains an unacceptable degree of uncertainty in relation to flood risk. These attract considerable weight.
22. Set against this, the combination of the limited and modest benefits identified above would not clearly outweigh the considerable harms. As such, the very special circumstances required to justify the development do not exist. The proposal is therefore contrary to Green Belt Policy DM.22 of the Local Plan, the development plan as a whole and the Framework. Consequently, the appeal is dismissed.

Rachel Hall

INSPECTOR