



Appeal Decision

Site visit made on 15 October 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2024

Appeal Ref: APP/M1005/W/24/3343893

Land to the East of Newlands Road, Riddings, Alfreton DE55 4EQ

- 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 Hastings against the decision of Amber Valley Borough Council.
 - The application Ref is AVA/2023/0415.
 - The development proposed is demolition of existing buildings and the erection of a dwellinghouse (outline).
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of existing buildings and the erection of a dwellinghouse at land to the East of Newlands Road, Riddings, Alfreton DE55 4EQ in accordance with the terms of the application, Ref AVA/2023/0415 subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access. I have assessed the appeal proposal on that basis and have considered the submitted plans as indicative except where they relate to access.

Main Issues

3. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, including the effect on openness of the Green Belt and the purposes of including land within it, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
- if the development is inappropriate, its effect on openness and 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 required to justify the proposal

Reasons

Whether inappropriate development

4. The appeal site involves land which is situated in the Green Belt. The site comprises an irregular-shaped parcel of land which is accessed from Slack Lane, an access track off Newlands Road. The site is bordered by a thick

screen of vegetation and contains a number of trees. The rear elevations of the dwellings on Newlands Road lie to the east of the site. To the west the site is bordered by open countryside.

5. The site contains a number of outbuildings and a shipping container with a combined footprint of 125m², which have been used for stabling horses, private storage and private workshops. At my site visit it appeared that much of the site was used for the storage of vehicles and waste. The proposal seeks outline permission for the erection of one dwelling following the demolition of the existing buildings.
6. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that the essential characteristics of Green Belts are their openness and permanence. Paragraph 154 states that the construction of new buildings in the Green Belt should be regarded as inappropriate unless the development falls within the exception list. This includes the partial or complete redevelopment of Previously Developed Land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development.
7. There does not appear to be an extant permission for the existing use of the site for the storage of vehicles and waste, nor has it been evidenced that the existing buildings and hardstanding are lawful. Nonetheless, it is common ground between the main parties that the site constitutes PDL. I concur with that assessment on the basis of the evidence before me and my own observations on site. It is therefore necessary to determine whether the proposal would have a greater impact on the openness of the Green Belt than the existing development.
8. The existing structures are not insubstantial and, in my view, have a negative impact on the openness of the Green Belt. The application is in outline and so matters such as scale, siting and form are not yet known. An indicative plan shows how the site could be redeveloped to accommodate a dwelling. Although indicative, it is informative as to how the site could be developed and shows a single storey building of reduced floor area and volume compared to the existing structures. If developed as indicated in spatial terms this would result in materially less built volume than presently exists. The central part of the site does not appear to be more visible than the location of the existing outbuildings; it is thus unlikely that the dwelling would appear more discernible than the existing structures.
9. The indicative plan shows one way in which the site could be developed that would not harm openness. This provides sufficient comfort that the site could be developed without harm to the Green Belt, the details of which could be adequately managed at the reserved matters stage. Whilst the development of the site would likely bring with it domestic paraphernalia, when seen in combination with the proposed dwelling this would be unlikely to be more harmful to openness – either in spatial or visual terms – than the existing outbuildings.
10. In light of the above, the proposal would not result in a loss of spatial or visual openness. As the proposal would not have a greater impact on the openness of the Green Belt than the existing development, it follows that the proposal would not be inappropriate development. As I do not find that the proposed

development would be inappropriate, there is no requirement to question whether very special circumstances are generated in this instance.

Other Matters

11. The Council's highways officer raised no objections to the proposal on highway safety grounds, commenting that the proposal would not generate any significant increase in the use of Slack Lane. Based on my observations on site and the information before me I have been presented with no reason to reach a different conclusion.
12. The Council's Trees and Conservation Officer is satisfied with the proposed tree protection measures, method statement and mitigation planting. Based on the information before me I see no reason to take a different view.
13. Comments regarding contamination of the ground with oil and other vehicle fluids from vehicles dismantled on the site are noted. Subject to conditions the Council's Environmental Protection Team raise no objections to the proposal on grounds of contamination. I see no reason to take a differing view.

Conditions

14. I have had regard to the conditions suggested by the Council, on which the appellant has had the opportunity to comment. The first 3 conditions are standard conditions relating to the submission and timing of the reserved matters application(s) and the commencement of development. In the interests of certainty, a plans condition is also necessary, but only in so far as they depict the site location and matters relating to access.
15. Pre-commencement conditions relating to site investigation, and the approval of a Landscape and Ecological Mitigation Plan and a Construction Environmental Management Plan are necessary to prevent potential contamination, minimise risks for future occupiers and to provide opportunities for the creation of suitable habitat features. In the interests of the protection of trees a condition requiring that the recommendations from the arboricultural report are adhered to is necessary.
16. The Council has suggested a condition restricting the height of the development. Details of scale would be covered by the reserved matters application. Therefore, I have omitted this condition. The Council has also set out several informative notes. However, such notes would have no legal effect, and I have not, therefore, included them in the decision. Nonetheless, the appellant has had sight of them and should, therefore, be aware of their contents.

Conclusion

17. For the above reasons, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed.

N Robinson

INSPECTOR

Schedule of conditions

- 1.) Approval of the details of the (a) appearance, (b) landscaping, (c) layout, and (d) scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place, and the development shall be carried out as approved.
- 2.) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3.) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4.) The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans:

4170 - 001A, 4170 - 003a.
- 5.) No development shall take place until:
 - i. The approved development site has been subjected to a detailed investigation to determine the extent, scale and nature of any contamination and an assessment of the potential risks (the Assessment) has been carried out.
 - ii. A report providing the details of the site investigation and the Assessment been submitted and approved in writing by the Local Planning Authority.
 - iii. A Remediation Method Statement (the RMS) to address any remediation required by the Assessment including a plan for how the remediation methods will be verified, has been submitted and approved in writing by the Local Planning Authority.

The development shall be undertaken in strict compliance with the requirements contained within the approved RMS. Any proposed revisions to the RMS must be submitted and approved in writing by the Local Planning Authority prior to any changes in remediation methods.

If during development works, any contamination is encountered which was not previously identified and is derived from a different source and/or of a different type to those already identified, then no further works shall take place until a revised RMS is submitted to and approved in writing by the Local Planning Authority and the works shall then be carried out in accordance with the revised RMS.

If during development work, site contamination is found in areas previously expected to be uncontaminated, then the remediation of those areas shall be carried out in accordance with the approved RMS.

No building shall be occupied unless and until a Verification Report in accordance with the RMS has been submitted to and approved in writing by the Local Planning Authority.

All investigations, assessments and reports must be carried out by a suitably qualified competent person previously agreed in writing by the Local Planning Authority and in accordance with the Environment Agency publication Land contamination: risk management (LCRM).

6.) No development shall take place until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

7.) No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

a) Risk assessment of potentially damaging construction activities.

b) Identification of "biodiversity protection zones".

c) Details of precautionary methods of working for breeding birds, reptiles and hedgehogs to include practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works (as necessary).

f) Responsible persons and lines of communication.

g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

i) Tree and hedgerow protection (to include the erection of adequate temporary fencing, in line with BS5837)

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

8.) No development shall take place until a landscape and ecological mitigation plan (LEMP) in accordance with the Arboricultural Report prepared by Thompson Consultancy (October 2023) has been submitted to the LPA and approved in writing. The LEMP shall include the following:

- a) Details of landscaping to include details of at least 8 native trees including fruit trees to enhance the adjacent orchard.
- b) Details of aftercare and any ongoing management including enhancement of the existing trees in the orchard.
- c) Details of species enhancement (to include a bat and bird box plan).
- d) Details of any external lighting fixtures.
- e) Details of mechanism(s) by which the implementation of the plan will be secured by the developer and details for any management body(ies) responsible for its delivery if applicable.

The approved LEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out prior to the development being brought into use. Any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

- 9.) The recommendations from the arboricultural report by Thompsons Consultancy (October 2023) shall be implemented in full. All retained trees and hedgerows shall be protected from damage during construction by the erection of adequate temporary fencing, in line with BS5837, prior to the commencement of groundworks. This fencing should remain in place for the duration of construction.
- 10.) Prior to the first occupation of the development hereby approved, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

END OF CONDITIONS