



Appeal Decision

Site visit made on 11 March 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 April 2025

Appeal Ref: APP/E3715/W/24/3350111

Fairview, Smeaton Lane, Stretton-Under-Fosse, Rugby, Warwickshire CV23 0PS

- 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 and Mrs Patrick and Eliza Ward against the decision of Rugby Borough Council.
 - The application Ref is R23/0635.
 - The development proposed is a dwelling with ecological enhancements.
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Decision

1. The appeal is allowed and planning permission is granted for a dwelling with ecological enhancements at Fairview, Smeaton Lane, Stretton-under-Fosse, Rugby, Warwickshire CV23 0PS in accordance with the terms of the application, Ref R23/0635, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. The description of development on the application form and Decision Notice is *'Exchange of certificate of lawfulness (REF R22/0162 for one residential caravan, one touring caravan, timber/metal shed and septic tank) for a dwelling with ecological enhancements.'* However, I have deleted the superfluous wording that explains the background to the case rather than the development itself.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the development on the openness of the Green Belt;
 - whether the development would be in a suitable location having regard to relevant development plan policies and accessibility to services;
 - whether the proposal would make adequate provision for biodiversity net gain (BNG); and
 - whether the 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

4. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless specific exceptions apply. One such exception is limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
5. Policy GP2 of the Rugby Local Plan 2011-2031, adopted June 2019 (LP) states that only where national policy allows will development in the Green Belt be permitted.
6. The appeal site comprises a rectangular parcel of land between existing residential properties fronting Smeaton Lane. At the time of my site visit it was occupied by a static caravan and timber stable building. A Certificate of Lawfulness¹ confirms the lawful use of the land for the stationing of one static caravan for residential use and one touring caravan, 2 sheds and a septic tank. The appeal proposal would see the construction of a detached 3 bedroom dwelling on the site, in lieu of the caravans and associated lawful development.
7. The appellant contends that the proposal would not constitute inappropriate development on the basis that the appeal site should be regarded as previously developed land. The Council also suggest that the development may not be inappropriate when assessed against paragraph 154 g) should the land be deemed to be previously developed land. The glossary at Annex 2 of the Framework defines previously developed land as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed.
8. While I acknowledge that, in light of the certificate of lawful use, it is likely that a static caravan would occupy the site in the long term, given the definition of a caravan, particularly that it is not fixed and is capable of being moved, it has not been shown to be a permanent structure. As such, I find that the appeal site would not comprise previously developed land, as defined in the Framework. The proposal would therefore not be the partial or complete redevelopment of previously developed land.
9. In addition, the Framework also sets out at paragraph 155, that the development of homes in the Green Belt should not be regarded as inappropriate where specific criteria apply, including that the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining

¹ LPA Ref. R22/0162 Granted 26 May 2022

Green Belt across the area of the plan. The Framework defines grey belt land as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. Purposes (a) (b) and (d) do not apply to the appeal site.

Therefore, the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. The Council confirm that there is a demonstrable unmet need for the type of development proposed so criterion b) of paragraph 155 is met.

10. For the proposed development not to be inappropriate in Green Belt terms, paragraph 155 also requires that the development would be in a sustainable location, with particular reference to paragraphs 110 and 115. The appeal site is lies within a cluster of dwellings located beyond a defined development boundary in an area of open countryside. The nearest services and facilities are a considerable distance from the site, and the surrounding highway network comprises of narrow rural lanes devoid of pavements and streetlights. Thus, future occupiers of the development would be heavily reliant on the private car to access day to day services and amenities. The site is therefore not considered to be in a sustainable location, and in that regard would fail to satisfy criterion c) of paragraph 155. The development would therefore be inappropriate.
11. Having regard to the purposes of the Green Belt in addition to those parts of paragraph 143 of the Framework relevant to grey belt land, given the scale and location of the proposed development, comprising a modest dwelling on a narrow plot betwixt existing residential development, it would not give rise to any tangible effects in terms of encroachment into the surrounding countryside. Paragraph 143 e) is not relevant to the appeal proposal.
12. For the foregoing reasons, while the proposal would not conflict with the purposes of including land within the Green Belt, the proposed development would not fall within the exceptions listed at paragraphs 154 or 155 of the Framework and consequently would be inappropriate development in the Green Belt. In that regard it would conflict with Policy GP2 of the LP. As set out in the Framework inappropriate development is, by definition, harmful to the Green Belt and is to be given substantial weight.

Openness

13. The submitted plans show the footprint of the proposed dwelling would not be dissimilar to that of a static caravan, which could occupy the site. Nonetheless, and notwithstanding the overall modest scale of the proposed dwelling, it would be greater in height and overall volume than even the most substantial static caravan. Therefore, despite the existing residential use of the site, the proposed dwelling would have a greater effect on the openness of the Green Belt than the existing situation in spatial terms.
14. The existing mobile home and timber shed are visible from the road, albeit set back from the edge of the highway. The scale and siting of the proposed dwelling would give rise to a more visually prominent feature when viewed from the front of the site. Nonetheless, the site is narrow and generally well contained by the adjoining residential development to either side of the plot, and planting to the site

boundaries would soften the visual effects in longer distance views towards the site.

15. Consequently, by reason of the height and scale of the proposed dwelling, combined with its greater degree of permanence, the proposal would have a greater spatial and visual impact on the openness of the Green Belt than the existing development at the site. However, taking the above factors into account, the overall harm to openness would be limited.

Suitable location

16. For the reasons set out above, the proposed development would not be in a suitable location having regard to relevant development plan policies and accessibility to services. In that regard, it would fail to accord with Policy GP2 of the LP, which supports new development in accordance with the settlement hierarchy. Notwithstanding this, I am mindful that the proposal would replace a residential caravan and would therefore be unlikely to give rise to a significant increase in trip generation. Accordingly, any harm in that regard would be limited.

BNG

17. The application was made before the 2 April 2024 and is therefore exempt from the mandatory provision of BNG in line with the statutory provisions of Schedule 7A of the Town and Country Planning Act (as inserted by Schedule 14 of the Environment Act 2021). Therefore, the appellant's suggestion that the proposal may not be subject to mandatory biodiversity gain for other reasons is not pertinent to the appeal.
18. Policy NE1 of the LP sets out that development will be expected to deliver a net gain in biodiversity in accordance with a mitigation hierarchy but does not set out a specific percentage to be delivered by individual developments.
19. The Biodiversity Net Gain Report by Elite Ecology dated October 2023 (BNGR) confirms that the proposal would include habitat creation and species specific enhancements that would result in a 11.35% increase in area habitat biodiversity units and 120.30% increase in linear habitat biodiversity units. While I acknowledge that work may have been carried out at the site which has reduced its biodiversity value, the Council has offered no substantive evidence as to the biodiversity value of the site prior to such works. In the absence of any clear evidence of an alternative baseline to that put forward by the appellant, it has not been demonstrated that the development would not exceed the pre-development biodiversity value of the onsite habitat of the amount as set out in the appellant's submissions.
20. Thus, in light of the above considerations, there is no clear reason that the proposal would fail to make adequate provision for BNG, subject to the implementation of the details set out in the BNGR, which could be secured by a planning condition. Accordingly, the proposal would not conflict with Policy NE1 of the LP.

Other considerations

21. The appellant contends that additional caravans could be installed on the site which would cause more harm to openness than one permanent dwelling. However, in the absence of a certificate of lawfulness to demonstrate that an

increase in the number of caravans would be lawful, I therefore give limited weight to this as a fallback position.

22. Nevertheless, the existing Certificate of Lawfulness² establishes that the static caravan which is present on the site could occupy the land for the longer term. Moreover, it could be replaced by one greater in size and an additional caravan and shed positioned on the site in accordance with the certificate. Based on the evidence before me, there is no compelling reason to suggest this would not be the case. Despite not being permanent, development of this extent may have a considerable effect on the openness of the Green Belt, greater than that of the appeal scheme, which is a material consideration of significant weight. Furthermore, while the appeal proposal would have a greater degree of permanence than the component parts of the lawful use of the site, it would not conflict with the purposes of the Green Belt as set out in the Framework.
23. I acknowledge that the proposed dwelling would provide a better standard of living accommodation for the appellant and their family than a caravan. A dwelling would also be more energy efficient due to a more sustainable construction, which would give rise to environmental benefits. I attribute considerable weight to these benefits.
24. The proposed dwelling would secure the removal of the lawful caravans which would improve the general appearance of the site and reflect more closely the surrounding residential properties. Thus, it would be more sympathetic to the site context, to the benefit of the character and appearance of the area, to which I attach moderate weight.

Green belt balance

25. The appeal scheme would represent inappropriate development which by definition is harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances only exist where the harm by reason of any inappropriateness and any other harm is clearly outweighed by other considerations. In addition to harm by reason of inappropriateness, the development would cause limited harm to openness. The Framework requires substantial weight to be given to any harm caused to the Green Belt.
26. While the proposal would conflict with Policy GP2 of the LP by virtue of the location, any harm in that regard would be tempered by the established residential use of the site.
27. Thus, the combined weight of the other considerations in support of the proposal in this case clearly outweighs the totality of the harm the development would cause in terms of its inappropriateness, to openness and the location. Therefore, when considering the case as a whole, very special circumstances exist which justify the development.

Conditions

28. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the PPG. In addition

² LPA Ref. R22/0162 Granted 26 May 2022

to the standard timescale condition, I have imposed a condition specifying the relevant plans to provide certainty. The materials to be used externally on the walls and roof of the dwelling are shown on the approved plans, a condition requiring details is therefore not necessary.

29. A condition to require the removal of the existing static caravan from the site and to prevent the stationing of caravans on the site in the future is necessary in light of the above considerations. A condition to secure the implementation of the recommendations set out in the Biodiversity Net Gain Report by Elite Ecology dated October 2023 is necessary to ensure the development would deliver a net gain in biodiversity in accordance with LP Policy NE1.
30. The Council has suggested conditions regarding the provision of broadband infrastructure to serve the dwelling and to limit water usage. However, in the absence of any policy justification, it has not been demonstrated that these conditions would meet the tests set out in the PPG. Accordingly, I have not imposed them.

Conclusion

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

E Worley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan dwg. no. 01, Proposed Site Plan dwg. no. 03, Ground Floor Plan dwg. no. 04, First Floor Plan dwg. no. 05 and Elevations dwg. no. 06.
- 3) Within 3 months of the first occupation of the dwelling hereby permitted, the existing static caravan shall be removed from the site. No caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the land at any time thereafter.
- 4) The development hereby permitted shall be carried out in strict accordance with the Biodiversity Net Gain Report by Elite Ecology dated October 2023. The species specific enhancements set out therein shall be fully implemented before the first occupation of the dwelling hereby approved and shall be retained as such thereafter in perpetuity. All planting, seeding or turfing comprised in the habitat creation measures shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.

*******end of conditions*******