



Appeal Decision

Site visit made on 4 March 2025

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Appeal Ref: APP/N3020/W/24/3353845

176 Nottingham Road, Burton Joyce, Nottinghamshire NG14 5BD

- 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 Jemal Mazlum against the decision of Gedling Borough Council.
 - The application reference is 2024/0213.
 - The development proposed is a three bed detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a three bed detached dwelling, at 176 Nottingham Road, Burton Joyce, Nottinghamshire NG14 5BD, in accordance with the terms of the application, Ref 2024/0213, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appellant has provided revised plans at appeal stage to address matters forming part of the reasons for refusal. The changes comprise the dwelling moving 400mm away from No 176, internal alterations to remove an en-suite and alter the size of a bedroom and removal of a side, first floor window. Having regard to the Wheatcroft principles, the amended plans are not substantially different to the previous plans and parties to the appeal have had the opportunity to comment on them during the appeal process. Therefore, I am satisfied that no prejudice would arise from my considering the appeal on the basis of the revised drawings.
3. On 12 December 2024, an updated National Planning Policy Framework (the Framework) was published. The main parties have been afforded the opportunity to comment on the revised Framework and I have taken the responses received into consideration.

Main Issues

4. The appeal site lies within an area of Green Belt. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies, the provisions of the Framework and the effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area;
 - The effect on neighbours' living conditions;
 - If the proposal would be inappropriate development 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 necessary to justify it.

Reasons

Whether Inappropriate Development

5. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless certain exceptions apply. One exception is (g) - limited infilling or the partial or complete redevelopment of previously developed land (PDL) (including 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.
6. The Council's assessment was made against the previous version of the Framework, where the relevant test at criterion (g) was that development would not have a greater impact on the openness of the Green Belt than the existing development. It applied Policy LPD15 of the Part 2 Local Plan (July 2018) (the P2LP) which relates to infill development within named villages in the Green Belt and within the boundaries of previously developed sites in the Green Belt.
7. Burton Joyce is not one of the named villages in Policy LPD15, but the Council has regarded the site as PDL. However, the definition of PDL in the Framework specifically excludes land in built-up areas such as residential gardens. The proposal relates to land within the curtilage of an existing dwelling located in a continuous linear development extending from the centre of the village of Burton Joyce. From my observations, the site forms part of the contiguous built-up area of the village, and therefore I cannot conclude that the appeal site constitutes PDL, having regard to the Framework definition. Consequently, the exception at Paragraph 154(g) does not apply. Nor, by extension, does Policy LPD15 apply to the proposal, as the P2LP uses the same definition of PDL as the Framework.
8. However, the evidence before me, including extracts from the Burton Joyce Neighbourhood Plan, consistently describes Burton Joyce as a village. Having found the site to be physically part of the built-up area, criterion (e) of Paragraph 154, limited infilling in villages is potentially applicable. There is no definition of 'limited infilling' in the Framework, and no other definition has been put to me, but a straightforward interpretation of the term 'infilling' is development that would occupy a gap between two buildings or developments within a built-up frontage. 'Limited' can mean small in number, size or both.
9. The proposal is for a single dwelling of a comparable size to its neighbours, which would be limited in both number and size. It would be located in a modest gap between two existing dwellings that is occupied at present by a garage and driveway, and I am satisfied it would be a form of infill development. Therefore, the proposal would fall within criterion e) of Paragraph 154 of the Framework and so would not constitute inappropriate development within the Green Belt.
10. With respect to openness and the purposes of the Green Belt, given my findings that the proposal would amount to limited infilling within a village, and is not therefore inappropriate development in the Green Belt, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it.
11. Moreover, as the proposal does not amount to inappropriate development in the Green Belt, there is no requirement to assess if there are other considerations that amount to very special circumstances needed to justify the development.

Character and Appearance

12. The street scene contains a variety of dwelling sizes and designs. Several, such as at No 174, have large footprints extending across the width of the plot, whereas No 176 and No 180 have narrower footprints with more open space to the side. There is also a mix of bungalows, dormer bungalows and two storey dwellings, and different styles and external materials. Consequently, the street is capable of accommodating various sizes and forms of dwelling where appropriate.
13. In this case, the dwelling would stand close to No 176 and would effectively match it in footprint and height. The 1900mm gap between the existing and proposed dwelling on the site would be narrow, but it would be similar to the spacing between other dwellings along the street, including between Nos 170 and 174 and between Nos 182 and 184. There would also remain ample space between the dwelling and No 180 on the other side that would reflect wider gaps also seen intermittently within the street. This would serve to reduce the sense of the dwelling appearing squeezed onto the site in a cramped manner.
14. The dwelling would match the external red brick of No 176 and the rendered detail of the front first floor elevation. It would differ from the hipped roof of No 176 by having a pitched roof with side gables, and the front bay window would be square, not bevelled. The windows are also proposed in a grey frame rather than white. The design differences would be minor in nature and in the context of the wide variety of dwelling shapes, sizes and materials along the street, would not appear harmful. Overall, the scale and position of the dwelling would integrate with the existing, eclectic built form and maintain the strong, linear pattern of development.
15. The proposal would have a sufficient depth of front driveway for off-street parking, and No 176 would be provided with a new access to the other side to maintain its off-street parking. The new dwelling would have a small rear patio and, like others in the street, the rear garden would comprise of steeply rising land that it is proposed to tier and lawn. The standard of external space would be consistent with the surrounding area and acceptable in the circumstances.
16. For these reasons, I conclude that the proposal would preserve the character and appearance of the area, and no conflict would arise with Policy 10 of the Aligned Core Strategies Part 1 Local Plan (September 2014) (the ACS) or Policy NP3 of the Burton Joyce Neighbourhood Plan (January 2019), which together require high quality design that contributes to the character of the village, assessed in terms of structure, texture and grain including street patterns, plot sizes, orientation and positioning of buildings and the layout of space.

Living Conditions

17. The appellant has addressed the Council's concern regarding overlooking of No 176 by omitting the side, first floor window from the plans. Bedroom 3 would instead be extended, replacing an en-suite, and would be served by a rear facing window. Consequently, there would be no direct overlooking of No 176 from any side window. The revision to the layout of Bedroom 3 would also address the Council's concerns over the limited side outlook this room would have had.
18. In other respects, the proposed dwelling would align with the existing at No 176 and would not have an overbearing effect on its front or rear windows. The position of the dwelling may increase shadowing slightly to the rear patio of No 176, but I

saw this to be a very limited space suitable only as a passageway. Occupants of No 176 can otherwise avail of space to the banked rear garden or to the other side of the dwelling, and I am satisfied that there would be no material harm to occupants' living conditions.

19. On the other side, the dwelling would be separated from No 180 by the driveway and outbuildings to the side of the property. The orientation of the proposed dwelling to the north-east of No 180 would preclude a significant adverse overbearing effect or loss of sunlight to its side elevation.
20. Therefore, I conclude that the proposal would preserve the living conditions of neighbouring occupants, in accordance with Policy LPD32 of the P2LP, which permits proposals that do not have a significant adverse impact on the amenity of nearby residents.

Other Matters

21. The application was not opposed in terms of highway safety or the effect on a nearby local wildlife site. The evidence before me does not lead me to conclude otherwise.

Conditions

22. I have had regard to the conditions set out by the Council and the appellant's response. The numbers in brackets refer to the condition number in the schedule.
23. In addition to the statutory time limit condition [1], a condition specifying the approved plans is necessary to provide certainty [2]. A Construction Emission Management Plan is required to minimise airborne emissions, to protect air quality [3]. This is pre-commencement as it requires measures to be in place at the outset of development to be effective. Details of boundary treatments [4] are required to ensure a satisfactory appearance to the development, as is the rendering of the building to match No 176 [5].
24. It is necessary to ensure a dropped kerb and driveway are provided to the existing dwelling to ensure vehicular access is maintained [6, 7]. It is also required that both driveways are hard surfaced and designed to ensure surface water does not discharge to the highway, in the interest of highway safety [8, 9]. Visibility splays are also required to both driveways for the same reason [10]. Electric vehicle charging facilities are sought by the Council. However, since June 2022, the requirement to provide electric vehicle charging points has become part of the Building Regulations. Thus, it is not necessary to duplicate other legislation.
25. The Council seeks to remove permitted development (PD) rights to extend the dwelling. The Planning Practice Guidance states that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity and should be precisely defined. The reason given is the protection of neighbours' living conditions. However, the physical constraints of the site, in particular the steeply rising ground to the rear, are such that extensions to the side or rear of any notable size do not appear feasible. As such, I am not persuaded that a restriction of Class A rights to extend the dwelling is necessary.
26. Works permitted under Class B would effectively be limited to the rear facing roof slope, which would not introduce new angles of view or significant additional massing. Works under Class C are minor and would have less effect than those

under Class B. Works under Class E would be limited to the rear, and although the steep topography makes such additions unlikely, the site plan includes significant depth of land where such works could theoretically be undertaken, with the potential for overlooking or overbearing effects on neighbours. Therefore, I consider it necessary to restrict development under Class E only [11].

Conclusion

27. For reasons set out, the proposal would not be inappropriate development in the Green Belt. Nor would it have an adverse effect on character and appearance or neighbours' living conditions.
28. Although found not to be directly applicable, there would be no conflict with the criteria of Policy LPD15 relating to infill development in the Green Belt. The proposal would otherwise accord with the development plan as set out above. There are no material considerations which indicate that permission should nevertheless be withheld.
29. Consequently, the appeal should be allowed.

K. Savage

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be undertaken in accordance with drawing numbers 001 JM Rev B (Block Plan); 002 JM Rev B (Proposed Plans); 003 JM Rev A (Proposed Elevations); Location Plan 1:1250.
- 3) Prior to commencement of the development a Construction Emission Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the site preparation and construction shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must be prepared with due regard to the guidance produced by the Council on the assessment of dust from demolition and construction and include a site specific dust risk assessment. All works on site shall be undertaken in accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority.
- 4) The dwelling hereby permitted shall not be occupied until a detailed scheme for the boundary treatment of the site, including position, design and materials, and to include all boundaries have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the dwellings are first occupied and the approved means of enclosure retained thereafter for the life of the development.
- 5) The dwelling hereby permitted shall be rendered in accordance with the approved plans prior to the dwelling being brought into first use.
- 6) The driveway area to the existing dwelling shall be provided before the dwelling hereby permitted is first brought into use and the driveway area retained thereafter at all times for the life of the development.
- 7) The dwelling hereby permitted shall not be brought into use until a dropped vehicular footway crossing has been installed for the existing dwelling and proposed dwelling dropped kerb is extended and is available for use and constructed in accordance with the Local Highway Authority specification to the satisfaction of the Local Planning Authority.
- 8) The dwelling hereby permitted shall not be brought into use until both drives and any parking or turning areas to both the proposed and existing dwelling are surfaced in a hard-bound material (not loose gravel) for a minimum of 5.5 metres behind the highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard-bound material for the life of the development.
- 9) The dwelling hereby permitted shall not be brought into use until both access driveways / parking / turning areas are constructed with provision to prevent the unregulated discharge of surface water from the driveway/parking/turning areas to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
- 10) The dwelling hereby permitted shall not be brought into use until the visibility splays of 2.4 x 47m are provided to both accesses. The area within the

visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures, or erections.

- 11) No works permitted under Class E of Part 1 Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order) shall be undertaken without the benefit of planning permission.
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