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## Appeal Decision

Site visit made on 10 May 2016

**by G Fort BA PGDip LLM MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 04 August 2016**

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**Appeal Ref: APP/R3705/W/16/3144450**  
**Land North of Dog Lane, Nether Whitacre**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Whiterock Homes Limited against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2015/0550, dated 28 August 2015, was refused by notice dated 15 December 2015.
  - The development is described as erection of 11 dwellings to meet local identified needs and all associated works
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Whiterock Homes Limited against North Warwickshire Borough Council. This application is the subject of a separate Decision.

### Main Issues

3. The appeal site lies within the Green Belt. Consequently, the main issues in this appeal are whether or not the appeal scheme would constitute inappropriate development for the purposes of the National Planning Policy Framework and the development plan; secondly, the effects of the scheme on the openness of the Green Belt; thirdly, whether or not the proposal would be in a sustainable location for the purposes of local and national planning policy; and fourthly, if the proposal is inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations.

### Reasons

#### *Whether or not inappropriate development*

4. The appeal site is part of a larger open agricultural field abutting Dog Lane, set within the West Midlands Green Belt. Situated on the fringes of the settlement of Nether Whitacre, the appeal site is adjacent to a modest amount of residential ribbon development to the south west on the same side of Dog Lane. Across the lane development is more sporadic and dispersed, with open fields of an agricultural nature more dominant. The appeal site is bounded by a mature hedgerow and intermittent mature trees to Dog Lane. The lane, which
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- is narrow and without a footway at this point, contributes a great deal in its present form to the wider rural character of the area.
5. The appeal scheme proposes the development of 11 dwellings set back from the lane, arranged around, and fronting onto a curving access road and turning head. The development would comprise three two-storey detached houses, six two storey semi-detached houses, and two semi-detached bungalows.
  6. The National Planning Policy Framework ("the Framework") attaches great importance to Green Belts. It states at paragraph 79 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Construction of new buildings is inappropriate in the Green Belt, with a number of exceptions to this general principle given in paragraph 89 of the Framework, which include, inter alia "limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan".
  7. The North Warwickshire Core Strategy (adopted October 2014) ("the Core Strategy") at Policy NW2 sets out the criteria for development in areas that are not named settlements with development boundaries of which Nether Whitacre is one. In these areas affordable housing will only be permitted where there is a proven local need; it is small in scale and is located adjacent to a village. Policy NW5 states that outside of named settlements "only affordable housing where there is a proven local need and it is small in scale and does not compromise important environmental assets" will be permitted.
  8. Due to the scale and positioning of the proposal at the end of a small row of ribbon development, it would not constitute limited infill. However, I am mindful of the comma in the relevant bullet point of paragraph 89 of the Framework, and consider that limited affordable housing does not also have to be limited infill for it to constitute not inappropriate development in the context of the Green Belt. The appeal proposal comprises a mix of social rented units and intermediate market dwellings for sale. Both of these tenure types are affordable for the purposes of the Framework.
  9. The appellant has supplied *A Detailed Investigation into the Housing Needs of Nether Whitacre*, ("the Housing Needs Investigation") which was published in July 2014. In assessing the Housing Needs Investigation, I have been mindful of a previous appeal decision in the borough, which considered the materiality of a similar document<sup>1</sup>, and also the consideration of similar documents in planning permissions around the region<sup>2</sup>. In terms of the current appeal, out of 300 delivered surveys 91 were returned, a sample size of around 30%. Out of the 91 returned surveys, 10 returns indicated a need for affordable housing. Of these, whilst all had a local connection to the area, only two were currently on the local authority's housing register.
  10. The Housing Needs Investigation concludes that there is an immediate identified need for five affordable homes and five open market homes in Nether Whitacre, although the draft submitted to me in evidence includes a handwritten annotation that suggests "as a result of the 'extra' HNS (Housing Needs Survey) forms the final outcome was 6 AH + 5 MFS". Whilst I note from the original officer's report on the proposal the general acceptability of the

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<sup>1</sup> APP/R3705/W/15/3087232

<sup>2</sup> Stratford on Avon District Council references: 09/02049/FUL/; 14/01089/FUL; and 13/000870/FUL

approach in the Housing Needs Investigation, the body of the Investigation lacks any analysis of this 'extra' form and thus I attach only limited weight to the robustness of the requirement for 11 dwellings arising from the Housing Needs Investigation. I am thus not persuaded that a need for 11 units is conclusively established. Whilst the assessment is not wildly out of date, I am also mindful of the presence of only two residents of Nether Whitacre on the Council's housing waiting list which adds to my overall concerns regarding the accuracy of the requirement for 11 units.

11. In assessing the scheme I have also considered whether the proposal would be small in scale for the purposes of the Core Strategy. The proposal would significantly lengthen and deepen the ribbon of development at this part of Dog Lane and would be a considerable increase in the overall built form and site coverage of Nether Whitacre, which is otherwise an area of sporadic and dispersed roadside development. Relative to the wider settlement within which the appeal site sits, it would not therefore be small in scale. I am mindful of the appellant's suggestion that the parish as a whole rather than the settlement of Nether Whitacre should be the relevant geographical unit for the consideration of whether the proposal is limited in scale. However, the parish comprises distinct settlements, and furthermore the settlement hierarchy of the Core Strategy identifies settlements rather than parishes. For these reasons, I am persuaded that the relevant geographical scale for this assessment is the settlement rather than the parish.
12. I consider that in the absence of a definition of 'limited' for the purposes of the Framework that it could mean either a small area in terms of land take, or delivery of only the amount of units required. In either interpretation of the term, both in terms of the land take of the proposal, and the number of dwellings mooted, the appeal scheme would not be limited, and these considerations would support the conclusion that the appeal scheme would not represent 'limited affordable housing'.
13. Turning to consider whether the affordable housing would be located adjacent to a village. Nether Whitacre, particularly the area which the appeal site abuts, does not possess the character of a village. The houses adjacent to Dog Lane are much more in the character of roadside ribbon development, and the proposal would serve to both lengthen and deepen this. However, whilst cognisant of the distinction between villages, hamlets and other settlements, I am also mindful of a lack of definition of any of these terms in the development plan. I also consider that, as Policy NW2 refers to settlements outside of the development plan hierarchy, that a looser interpretation of the term 'village' should be adopted. In terms of this criteria, then, the proposal would be adjacent to the settlement of Nether Whitacre, and I do not consider that there would be a conflict with Policy NW2 in this regard.
14. In terms of whether the proposal would compromise important environmental assets, the development of the open agricultural field would have an obvious impact on the rural character of the area, through subdividing the site, including a substantial amount of building and through punching a significant hole through the existing hedgerow. Whilst mindful of the suggestion that the Green Belt is to some extent a land management tool and not purely an environmental designation, the proposal would constitute a visual intrusion on the site that would be harmful to its character and appearance, which would result in a degree of environmental harm. However, given the wording of

Policy NW5, I do not consider this to be so severe as to compromise an important environmental asset.

15. Whilst the proposal would be adjacent to a settlement and would not be of such a scale that it would compromise important environmental assets, the scheme could not be deemed to be limited in scale in terms of the numbers of units proposed, or in terms of the land-take of the proposal. Consequently the proposal would conflict with the Policy NW2 and NW5 in these regards, and would constitute inappropriate development for the purposes of the Framework.

#### *Openness*

16. It is an established planning principle that, in Green Belts the concept of openness goes beyond the purely visual effects of a proposal and includes its spatial aspect. Thus in this context 'openness' means that land within Green Belts should remain, on the whole free from development. Paragraph 80 of the Framework sets out the purposes of the Green Belt, of most relevance to this case is "to assist in safeguarding the countryside from encroachment".
17. The appeal scheme would introduce a substantial amount of development in terms of housing, access and parking arrangements and boundary treatments on a site that is currently open and of a deeply agricultural and rural character. The proposal would consequently reduce openness of the Green Belt to a significant degree both in terms of its visual and spatial aspects, and would be contrary to the Framework in these regards.

#### *Sustainable Location*

18. The Framework, at paragraph 55, emphasises the promotion of sustainable development in rural areas. Policy NW1 of the Core Strategy also emphasises the primacy of the promotion of sustainable development in planning decisions. For the purposes of the Framework, sustainable development has three aspects, namely the economic, environmental and the social.
19. I shall assess the proposal against these aspects in turn. In terms of the environmental dimension, the appeal scheme would impinge on an area of open agricultural land, and would constitute something of a visual intrusion within this landscape. It would also interfere to some extent with the hedgerow abutting Dog Lane and have negative effects on both the character and biodiversity of the area in so doing.
20. Critically, the proposal would be located at the edge of the settlement, fronting a narrow lane devoid of street lighting that would be unwelcoming to both pedestrians and cyclists, and remote from most of the services that provide for the day to day needs of residents. Consequently, the residents of the proposed dwellings would be heavily reliant on the private car as a form of transport. I am mindful of the school bus timetable submitted by the appellant, which is indicative that that alternative means of transport would be available for these purposes. I have also had regard to the number of bus services serving Nether Whitacre, however, some of these appear to be of limited frequency, and I have no detailed timetable before me of the only service that appears to run everyday between Monday and Saturday. In the absence of these more substantive details, I find little to address my over-riding concern that

- residents of the scheme would be reliant on the private car for the majority of trips.
21. Taken together the proposal's effects on the local rural character, its limited effects on biodiversity and the low level of accessibility of the proposal would all suggest that the development would deliver a low level of environmental sustainability.
  22. In terms of the social aspect of sustainable development, the proposal would have demonstrable benefits in terms of the provision of 11 affordable houses. The provision of housing could contribute to some degree to the social sustainability of the wider settlement. However, this would be tempered to some extent by the appeal site's remoteness from services to meet the day to day needs of its residents, which would limit its overall social sustainability, and limit the accessibility of the properties to all but those with access to a car.
  23. The proposal would have undoubted economic benefits during its construction in terms of the employment of site operatives and others, and in the ordering of materials. By enabling the population to stay in the area who may move out, or through attracting new residents the proposal could also have beneficial economic effects on what local services there are, such as the public house. However, these latter benefits of the scheme would likely be modest, and the harmful effects of the development to the surrounding environment would subsist long after the beneficial effects of employment in its construction phase have faded away. Consequently, I only attach to these considerations limited weight in my assessment of the appeal.
  24. I have considered whether, per paragraph 55 of the Framework, the proposal would help to support services in other nearby villages. However, in the absence of any substantive evidence in these regards, I am unable to attach much weight to this consideration.
  25. The proposal, whilst having some demonstrable social benefits flowing from the provision of new affordable housing would nevertheless, due to its location and remoteness from services and its effects on the rural character of the area would be indicative of a low level of environmental sustainability. Furthermore, its remoteness from services would temper the overall social benefits of the scheme. Its economic benefits, although demonstrable, would be, on the whole temporary, and would not outweigh its long-lasting harmful effects. Consequently, the appeal scheme would conflict with Policy NE1 of the Core Strategy and the Framework in these regards. Taken together, and amongst other matters, these policies seek to promote sustainable development in rural areas.

#### *Other Considerations*

26. The proposal, through the delivery of affordable housing would undoubtedly deliver substantial social benefits, not least in enabling local residents to access housing who are currently priced out of the market, and this is a matter to which I attach significant weight in the assessment of the scheme.
27. In considering appellant's evidence I have had regard to the other sites judged for affordable housing, which for one reason or another all could not come forward. This has left the appeal site as the only one identified by the appellants as available, suitable and deliverable. This is evidenced by

sequential test looking at more sustainable sites and it is a matter to which I attach moderate weight in my determination of the appeal. However, this is tempered to a significant degree by my findings in relation to the identified need, which I have found inconclusive.

28. I note the lack of objections to the scheme from the relevant statutory consultees. However, this is merely indicative of an absence of harm arising from these elements of the scheme, and consequently is not a matter to which I can attach substantial weight in my consideration of the appeal.
29. That the relative sustainability of Nether Whitacre is edging up in terms of the Council's settlement hierarchy checklist, when considered against Whitacre Heath which is slipping down that hierarchy was put before me in evidence. However, given their location and access to services both settlements have fairly low overall levels of sustainability, with Nether Whitacre being at a lower end of the scale. Accordingly, this consideration is of marginal weight in the determination of this appeal.
30. I accept that the proposal would not interfere to a significant degree with the living conditions of the residents of 10 Dog Lane. Whilst this may be the case, this would merely indicate a lack of harm arising from the scheme rather than a positive benefit. Consequently, this has a neutral effect on the overall planning balance.
31. The appellant supplied a unilateral undertaking. This would deliver modest benefits including a contribution towards play facilities and public open space within the development itself. Due to their scale, however, I can only attach limited weight to these considerations in the overall planning balance since they are policy requirements.

#### *Green Belt Balance*

32. The Framework states at paragraph 87 that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances." Furthermore, at paragraph 88 the Framework says that when considering planning proposals "substantial weight is given to any harm to the Green Belt. '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."
33. This is a high hurdle to overcome. As I am not persuaded that a need for the development has been established adequately, and following on from this the proposal would not be limited either in terms of the number of units or the amount of land taken to provide the scheme, the proposal would be inappropriate, and consequently harmful to the Green Belt. This would be exacerbated by the appeal scheme's significantly harmful effect on the openness of the Green Belt, and its conflict with the purpose of safeguarding the countryside from encroachment. Furthermore, the lack of sustainability of the proposal's location would be at variance with the policies of the Framework and the development plan.
34. For these reasons, none of the other considerations adduced for the scheme, either individually or cumulatively would clearly outweigh the substantial weight I have to give to these harms.

35. Consequently, the appeal scheme would be contrary to the Framework and Policy NW3 of the Core Strategy, which, taken together, and amongst other matters, seek to ensure that new developments avoid harmful effects to the openness of the Green Belt.

**Conclusion**

36. For the reasons given above, the appeal scheme would be contrary to the development plan. In the absence of any material considerations that would outweigh this conflict, I conclude, for the reasons given above, and having regard to all other matters raised, that the appeal should be dismissed.

*G Fort*

INSPECTOR

Richborough Estates