



Appeal Decision

Hearing held and site visit made on 21 April 2015

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 27th May 2015

Appeal Ref: APP/H1840/W/15/3004258

**Land at former Hanbury Brickworks, The Saltway, Hanbury,
Worcestershire WR9 7LZ**

- 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 Fortis Living against the decision of Wychavon District Council.
 - The application ref: W/14/01744/PN, dated 4 August 2014, was refused by notice dated 14 January 2015.
 - The development proposed is 12no affordable residential dwellings with associated site access & infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. One of the Council's refusal reasons concerns the lack of provision for contributions to mitigate the proposal's impacts in relation to open space, cycling and recycling facilities. A complete and executed unilateral undertaking to address this matter (in addition to matters relating to the provision of affordable housing) was submitted shortly after the close of the hearing, as were the Council's comments on it. I refer to these submissions again in the reasoning which follows.

Reasons

Main issues

3. The appeal site is a parcel of land that is both outside the settlement boundary of Hanbury (as defined in the Wychavon District Local Plan (LP) (2006)) and within the Green Belt. Given the importance attached to Green Belts in the *National Planning Policy Framework* and further to discussion at the hearing, I shall assess the main issues in this case in the following order, irrespective of the emphasis in the Council's refusal reasons¹:
 - whether or not the proposal would constitute inappropriate development in the Green Belt for the purposes of development plan policies and national policy guidance in the *National Planning Policy Framework*;

¹ Focussing to a greater extent on aspects of sustainability and development in the countryside

- the effects of the proposal on the openness and on the purposes of the Green Belt;
- other material considerations;
- if the proposal is found to be inappropriate development in the Green Belt, whether the harm arising from inappropriateness and any other harm would be clearly outweighed by other considerations, thereby amounting to the very special circumstances needed to justify the proposal.

Whether or not inappropriate development

4. Long-established planning policy indicates that construction of new buildings in the Green Belt should be regarded as inappropriate development, but exceptions are listed in the *Framework*. These include "limited affordable housing for local community needs under policies set out in the Local Plan". Saved LP Policies SR7 and COM3 are the relevant local policies in this respect.
5. LP Policy SR7 is the overarching policy relating to the Green Belt. It advises that development will only be permitted if it falls within certain categories and would not detract from the open character of the Green Belt or would not conflict with the purposes of including land within it. One category is "small-scale social housing schemes to meet proven local needs that accord with Policy COM3 (Rural Exceptions Policy)".
6. Policy COM3 sets out several requirements that should be met for affordable housing, such as the appeal proposal, on rural exception sites. The overall proviso is that proposals will be permitted for such housing on sites "on the edges of village"² as long as they also meet three other criteria. The location of the appeal site relative to the village of Hanbury is therefore critical in determining whether or not the proposal would accord with Policy COM3 and thus with the exception made in the *Framework* for affordable housing in the Green Belt. Criterion (b), which requires that the site has reasonable access to public transport and local services/facilities, is also relevant in this respect.
7. Of the other criteria, (a) requires the need to be proven and that no other suitable or appropriate sites are available within the settlement's development boundary. The boundary around Hanbury is very tightly defined, such that it is common ground there are currently no alternative sites within it. Some local residents' responses to the application query the need for affordable housing in the village but sufficient justification has been provided by Council officers in this respect. Criterion (c) relates to arrangements to ensure the housing remains affordable and, bearing in mind that this could be achieved by a legal agreement or a planning condition, it is not at issue in this appeal.
8. Turning then to consider the site's relationship with the village, it is on the north side of The Saltway, adjacent to a junction of an offshoot of this road and its main route (the B4090). The site is roughly half a mile to the south-west of the main built-up part of the village, as defined on Inset 29 of the LP Proposals Map. Between the defined village boundary and the site there are a few

² This is rolled forward in Policy SWDP 16 of the emerging South Worcestershire Development Plan (SWDP) as 'acceptably adjacent to the development boundaries of villages' (the SWDP is a joint plan for Wychavon District, Malvern Hills District and Worcester City Councils)

dwellings in a loose ribbon of development along the southern side of the B4090. On the northern side however there appears to be only one residential property, albeit that adjoins the appeal site and the western boundary of its large garden is also the appeal site's eastern boundary.

9. The site address suggests the appeal site was part of a former brickworks but there are conflicting accounts as to whether that was indeed the case. In any event it seems there has been no operational brickworks for very many years. The larger part of the former brickworks, to the north of the appeal site, is mainly rough grassland, as is the appeal site itself apart from the remnants of a surfaced track through the appeal site and some evidence of fly-tipping. Elsewhere around the site the landscape is predominantly agricultural, and its rural and largely undeveloped character is reinforced by hedgerows and trees.
10. In the light of the above, I find the nature of the appeal site surroundings and the degree of separation between it and the main built-up area of the village to be such that the site cannot be considered on the edge of the village (or reasonably adjacent to it). That is the case even though Hanbury as a whole is a relatively dispersed settlement with some sporadic development to the north of the defined village boundary in addition to the houses along the southern side of the B4090.
11. In terms of public transport and access to local facilities, public transport links are currently poor with bus services on only two days a week, but that would apply equally to sites within or adjacent to that part of the village inside the defined settlement boundary. In or to the north of this main core the facilities which also provide some employment opportunities include a primary school, pub, repair garage and a craft centre. These together with a church, village hall and recreation ground (also to the north of the central core) underlie the village's ranking as a Category 3 settlement in the emerging SWDP³. As such it is considered a reasonably sustainable settlement where some additional housing may be permitted, albeit any such housing will almost certainly have to be outside the defined settlement boundary⁴.
12. Although the village area is tightly defined in the LP, with most of its existing community facilities outside the defined boundary, it is significant that these are all to the north and accessed principally via Hanbury Road (the B4091) which runs northwards through the village from the junction with The Saltway. There are no community facilities along The Saltway between the defined village boundary and the appeal site. Moreover neither street lighting nor a footway alongside this busy road currently stretches as far as the site, thereby reinforcing the distinct sense of separation between it and the village.
13. I find it likely that these conditions would discourage travel on foot between the site and the village, especially in the dark or in bad weather, even though a linking stretch of footway is proposed as part of the appeal scheme⁵ and the distances involved are within recommended limits for walking. For similar reasons it is unlikely that many people would rely entirely on public footpath routes across the fields to reach, for example, the primary school in School

³ The South Worcestershire Development Plan, a joint plan for Wychavon District, Malvern Hills District and Worcester City Councils

⁴ Planning permission has already been granted for a housing scheme, including some affordable units, on the one site allocated in the emerging SWDP for additional housing in/adjacent to Hanbury

⁵ Albeit this would be on the opposite side of the carriageway to the existing footway, such that pedestrians using it would have to cross the busy road to continue walking towards the village

Road off the B4091. In addition traffic on The Saltway, especially heavy goods vehicles, and the long gradient up Hanbury Road are likely to discourage travel in the locality by cycle. Thus, in practice, travel by car is likely to be the preferred mode of transport for those with access to a car, as it is likely to be for existing Hanbury residents. Such journeys would however be short and, on that basis, the appeal site might perhaps be considered reasonably accessible.

14. However there can be no certainty that occupiers of the affordable housing would all have access to a car. For those who did not, the relatively isolated nature of the appeal site would make it significantly more difficult not only to access local facilities but also to integrate with the established community. Given also the poor accessibility by public transport there could potentially be problems of social and/or economic isolation, as is envisaged in the supporting text to LP Policy COM3(b). On balance therefore I find that the proposal would conflict with this element of this policy and also with the social dimension of sustainable development as set out in the *Framework*.
15. Overall therefore, even though the proposal would accord with some aspects of LP Policy COM3, in terms of its location it would fail to accord with the key criterion of being a site on the edge of the village (or reasonably adjacent to it). Thus the proposal would conflict with Policy COM3(b)⁶ and with LP Policy SR7. Consequently it would not fall within the criteria for limited affordable housing set out in paragraph 89 of the *Framework* as an exception to regarding the construction of new buildings in the Green Belt as inappropriate. Therefore I conclude the proposal would constitute inappropriate development in the Green Belt. As set out in the *Framework* such development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Openness and purposes of the Green Belt

16. Openness in a Green Belt context is a physical absence of buildings and structures, rather than an element of an area's character⁷. Thus, as was accepted at the hearing by the appellant's agent, it is inevitable that a development of 12 dwellings on the appeal site would impact on the Green Belt's openness. Given the predominantly green and undeveloped nature of the site, in a rural setting, I find the proposal would have a significant harmful impact on the Green Belt's openness. Also, as a substantial amount of new development, the proposal would constitute an encroachment of built form into the countryside, thereby conflicting with one of the purposes of Green Belts.

Other material considerations

17. There is no dispute that the proposal would conflict with saved LP Policy GD1 which aims to achieve sustainable development by seeking to concentrate development in the District's towns and larger villages, not least to help to reduce the need to travel, make best use of existing infrastructure and maintain the countryside's intrinsic character. A similar approach is advocated in the emerging SWDP.

⁶ Unlike a rural exception site at Hartlebury cited by the appellant as similar to the appeal proposal: however it appears that that site is better related to the village and more accessible by public transport than this appeal site

⁷ And thus the use of the phrase 'open character' in LP Policy SR7 is not wholly consistent with policy guidance in the *Framework*

18. The weight to be given to Policy GD1 has previously been in dispute, due to uncertainties about objectively-assessed housing need and housing land supply for much of the time since the SWDP was first submitted for examination (in May 2013). However in three recent appeal decisions⁸ put before me the Inspector in each case found, following examination of detailed evidence at inquiry, that the Council could now demonstrate a five-year housing land supply. At this hearing the appellant's agent conceded this point. Thus LP Policy GD1 should be treated not as out of date⁹ but as being broadly consistent with the *Framework* insofar as it accords with the *Framework's* aims and objectives. The conflict in this case with Policy GD1 is therefore another matter weighing against the proposal.
19. In terms of impact on the character and appearance of the countryside the proposal's layout and design is intended to create a group of buildings similar to complexes of farm buildings that occur in the wider locality. Even so, and notwithstanding the scope for landscaping that would mature over time, it would result in a substantial and relatively dense collection of buildings and hard surfaces that would be primarily residential in character. As such it would detract from the green and rural character of the largely undeveloped countryside around it, causing moderate harm in this respect.
20. Representations from the Parish Council include reference to preparation of a neighbourhood plan, which is intended to include consideration of sites for housing within the village centre. However little detail has been provided and I was told this plan is at a very early stage, such that it can be afforded little if any weight at present. With regard to the unilateral undertaking, even if the Council and appellant were in complete agreement about it and I were to find that the obligations it contains satisfy the relevant tests, the undertaking would simply provide for mitigation of some of the development's impacts and set out various matters relating to provision of the affordable housing: it would not add any weight in favour of the proposal¹⁰.
21. In favour of the proposal I have found nothing of substance other than the benefits of being able to provide 12 units of affordable housing¹¹, thereby helping to meet a serious shortfall of such accommodation in the District. However, as was acknowledged at the hearing, the *Planning Practice Guidance* includes advice that unmet housing need, which must logically include the need for affordable housing, is unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances necessary to justify inappropriate development in the Green Belt. Moreover any benefits arising from increasing the supply of affordable housing would be tempered, in this case, by the concerns about social integration set out in paragraph 14 above. Consequently I give the proposal's benefits in this respect no more than moderate weight.

⁸ Appeal ref: APP/H1840/A/14/2217607, decision dated 13 January 2015; Appeal ref: APP/H1840/A/14/2215896, decision dated 9 February 2015; Appeal ref: APP/H1840/A/14/2222708, decision dated 13 March 2015

⁹ Even if this had not been the case, footnote 9 to paragraph 14 of the *Framework* includes policy relating to the Green Belt as one of the specific policies in the *Framework* which indicate development should be restricted, such that the *Framework* presumption in favour of sustainable development would not apply to this proposal

¹⁰ As the provisions of the unilateral undertaking are not material in this instance to the overall balance of my conclusions there is no need for me to consider the obligations in relation to the Community Infrastructure Levy Regulations 2010 or to address the Council's concerns about the conveyance plan, monitoring and legal costs

¹¹ The appellant is a registered provider of affordable housing and has support for this appeal proposal from the Council's Strategic Housing Team and the Homes and Communities Agency

Conclusions (whether or not very special circumstances)

22. The *Framework* establishes that substantial weight should be given to any harm to the Green Belt. In this case I have found that the proposal would be inappropriate development in the Green Belt; it would cause significant harm to the Green Belt's openness; it would conflict with one of the purposes of Green Belts and with LP Policies GD1, SR7 and COM7; it would also cause moderate harm to the countryside's character and appearance. As will be evident from the preceding reasoning, the proposal would also fail to accord with the environmental dimension of sustainable development and there would be a degree of conflict with the social dimension of sustainable development.
23. On the other side of the balance the only substantive consideration weighing in favour of the proposal is the contribution it would make to the supply of affordable housing in the District, to which I have given moderate weight. As that is not sufficient to clearly outweigh the harm to the Green Belt it follows that the very special circumstances needed to justify the proposal do not exist. The proposal would unacceptably conflict with development plan policies and with the *Framework*, such that the appeal must fail.

Jane Miles

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Ms Sian Griffiths	RCA Regeneration Ltd
Ms Sarah Loynes	RCA Regeneration Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Ms Denise Duggan	Wychavon District Council (Planning)
Ms Jones	Wychavon District Council (Housing)

INTERESTED PERSONS:

Mr Lang	Site owner
Mr Murphy	Site owner

DOCUMENT SUBMITTED AT THE HEARING:

Unsigned and undated copy of appellant's unilateral undertaking

Richborough Estates