
Appeal Decision

Site visit made on 20 July 2015

by Paul Crysell BSc (Hons) MSc MRTPI

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

Decision date: 12 August 2015

Appeal Ref: APP/Q4625/W/15/3005541

**Land to the rear of 146 – 152 Tilehouse Lane, Whitlock's End, Shirley,
West Midlands B90 1PW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Phil & Peter Benton against the decision of Solihull Metropolitan Borough Council.
 - The application Ref 2014/1587, dated 27 August 2014, was refused by notice dated 1 December 2014.
 - The proposal is for the residential development of 12 houses.
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Decision

1. I dismiss the appeal.

Procedural Matters

2. The application is in outline with appearance and landscaping reserved for later determination. Following the site visit I was provided with a copy of the existing site plan (4611/01) and clarification that the Council did consider it had a five year housing land supply.

Main Issues

3. I consider the main issues in this case are:
 - whether the proposed development would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal provides an appropriate mix of housing in accordance with relevant planning policy; 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 necessary to justify the development.

Reasons

Inappropriate development

4. The appeal site is located to the rear of existing properties on Tilehouse Lane and Houndsfield Lane and is bounded by a railway line immediately to the west. A hedgerow marks the northern edge of the site beyond which lies an open field. This in turn gives way to parking serving Whitlock's End Railway Station. Much of the land has been used as a haulage yard and for storage purposes and the intention is to replace this and develop the remaining parts of the L-shaped site with 12 dwellings with a new access to be provided between 152 and 156 Tilehouse Lane.
5. The site is in the West Midlands Green Belt where policy P17 of the adopted Solihull Local Plan¹ (LP) says inappropriate development will not be permitted. This position accords with paragraph 87 of the National Planning Policy Framework (NPPF) which confirms that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances.
6. The NPPF explains that the construction of new buildings in the Green Belt is inappropriate although a number of exceptions are identified in paragraph 89. One of these refers to limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use. Annex 2 of the NPPF defines previously developed land (pdl) as that which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.
7. Policy P17 of the LP is said to be consistent with national Green Belt policy but it provides further guidance for a limited number of exceptions to inappropriate development which are particularly relevant in the Borough (paragraph 11.6.7). In terms of the current proposal the fourth bullet point to policy P17 is, in my opinion, the most apposite. This indicates that a new use involving the re-use of buildings or land and any associated use of land surrounding the building may be acceptable providing it does not conflict with, nor have a materially greater impact on the openness of the Green Belt and the purposes of including land in it.
8. The appeal site contains a substantial building in the north-west corner, metal storage units, remnants of other buildings and areas of hardstanding. These are located in the area behind the properties in Tilehouse Lane. There is little evidence of previous use on shrub land nearer the rear gardens of properties in Houndsfield Lane. This is broadly consistent with the appellants' claim that 75% of the site is previously developed land.
9. By fully occupying the 1.5 hectare site I consider the proposed development would exceed what could reasonably be claimed to be the area of pdl while its materially greater impact would not accord with policy P17. Furthermore, I do not agree with the appellants' assertion that the remainder of the site would represent limited infilling on pdl or, alternatively, within a village because the appeal site is outside any of the settlements defined in policy

¹ Solihull Local Plan – Shaping a Sustainable Future, December 2013

P17. Annex 2 also makes clear that it should not be assumed that the whole of the curtilage of pdl should be developed.

10. Consequently, on the first main issue I find that the proposed development would exceed the area of pdl and therefore amount to inappropriate development contrary to national and local objectives for the Green Belt.

Openness of the Green Belt

11. The NPPF says that the essential characteristics of Green Belts are their openness and permanence (paragraph 79). Exceptions involving new building on previously developed sites should not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development (paragraph 89). The same point is made in policy P17 of the LP.
12. The proposed housing would be well contained by existing properties and the railway line but the access road would make it obvious that buildings were present to the rear, especially as the road would penetrate to a considerable depth. The layout and retained trees would ensure that few of the houses would be visible from Tilehouse Lane but the hard surfacing would reinforce the perception of development in depth.
13. The open character of most of the site would therefore be replaced by housing leading the Council to conclude that the proposal would result in encroachment of the countryside. This is one of the purposes the Green Belt is intended to prevent. I reach the same conclusion because the scheme would have a greater impact on the openness of the Green Belt and as a result would not be consistent with NPPF objectives or policy P17 of the LP whose purpose is to avoid harm to the Green Belt.

Character and appearance

14. The Council says the low density development would adversely affect the character and appearance of the area while pointing out that more efficient use could be made of the land. That may be so but additional dwellings would further detract from the existing character of the area. In my view, the proposed layout would not be incompatible with the linear form of the frontage housing; the density, calculated to be about eight dwellings per hectare, would exceed that of the existing dwellings and make better use of the land while the appearance of the properties is a matter reserved for future consideration.
15. The primary focus of the Council's reservations relate to the access, parking and manoeuvring areas because they would introduce excessive amounts of hard surfacing. The main access, for instance, would extend some 170m into the site. This may be acceptable in a built-up area but it would have a strong urbanising effect in this semi-rural location.
16. I therefore find that the proposal would detract from the character and appearance of the area. This would be contrary to objectives in policy P15 of the LP to conserve local character, distinctiveness and streetscape quality as well as advice contained in Supplementary Planning Guidance, *New Housing in Context*.

Housing mix

17. The Council claims the scheme would not provide an appropriate mix of housing to meet local needs because of its emphasis on larger dwellings. The Design and Access Statement confirms that the larger properties would be four-bedroomed houses while the remaining five would be smaller two or three bedroomed affordable dwellings.
18. The Council says it has adopted a new Supplementary Planning Document (SPD) on housing needs which is relevant to the proposal². This is said to require that 50% of new housing is provided as smaller units of one to two bedrooms. However, I have not been provided with a copy of the document and I am therefore unable to take it into account.
19. In the absence of the SPD it seems to me the proposal represents a reasonable attempt to minimise its impact on the immediate area while providing some variety of housing types. It satisfies the requirement in policy P4 to secure 40% affordable housing as well as the broader aim in policy P5 to provide a mix of housing. I do not consider the housing mix is a reason for rejecting the development.

Other considerations

20. A successful legal challenge to the LP in 2014 has meant that the Council has been unable to adopt the housing land target, housing trajectory or five year housing land requirement originally included in its Plan. As a result the appellants claim that at April 2014 the Council had less than the five year supply of housing land required by paragraph 49 of the NPPF. The information published in the Council's Position Statement³ confirms the available supply at that date amounted to 4.5 years.
21. By April 2015 the Council says the situation had improved slightly and that it had a 4.6 year supply. It clarifies in its Position Statement that it would consider favourably the early release of sites allocated for later phases of the LP period in order to maintain a five year housing supply and says that 330 dwellings on four allocated sites could be brought forward. It also argues that two appeal sites at Tidbury Green, which are not being contested, should be taken into account. Consequently, it believes it is able to show a marginal surplus in its five year housing land supply.
22. That may be so but the information supplied by the Council is not sufficiently comprehensive to demonstrate this. The presumption in favour of sustainable development expressed in paragraph 14 of the NPPF therefore adds weight to the appellants' proposal although this is tempered by specific policy designations set out in footnote 9 to this paragraph. In particular, the latter identifies land in the Green Belt as one of the policy areas where development should be restricted.
23. I have previously concluded that the proposal would result in inappropriate development in the Green Belt and adversely affect openness. In comparison, 12 dwellings would have minimal impact on the current housing shortfall. Balancing these various points, I consider the case in favour of the

² Meeting Housing Needs – Supplementary Planning Document, adopted 25 June 2014.

³ Solihull Local Plan Policy P5 Position Statement, June 2014

proposal does not outweigh my concerns regarding the overall impact of the development on the Green Belt.

Other matters

24. I have had regard to the views of Tidbury Green Parish Council and the Council for the Protection of Rural England (CPRE) both of whom object to the development. I have dealt with most of the points they make above although I note that the Parish Council says the site has relatively poor sustainability credentials because it is some distance from local services and facilities and the bus service is limited. This would mean it was more likely that future occupants of the properties would use their cars. In my view this ignores the proximity of the railway station which would potentially enable those living here to use the train for work and social purposes. In these circumstances, I do not consider the sustainability of the site is so deficient as to warrant refusing the appeal.
25. The CPRE says that the necessary sight lines between the proposed access road and Tilehouse Lane cannot be achieved without using adjacent land outside the appellants' control. The need for localised realignment of the western kerb-line is proposed in the appellants' Transport Appraisal with corresponding widening made on the opposite side of the road. There has been no suggestion that this is not possible and the Highway Authority has not objected to the scheme. Given the unobstructed views in both directions I am not persuaded this is a reason for dismissing the appeal.
26. There have been no objections to the development by local residents. Instead a single letter of support says a residential use would be more in keeping with the neighbourhood than a haulage/warehousing yard. I understand why the proposals could find favour from a local perspective but the development would introduce a significant amount of building and associated infrastructure where very little exists at present.
27. A Tree Preservation Order ⁴ (TPO) covers 36 trees, four of which would be removed to provide access. The Council's Landscape Architect says their loss would be detrimental to the immediate environment but I do not agree given the limited numbers involved and the contribution the remaining trees would continue to make.
28. Having regard to all the matters discussed above, I conclude that the proposal would result in inappropriate development in the Green Belt and that the harm by reason of inappropriateness would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to support it. It would not accord with the NPPF and would fail to comply with relevant policy provisions in the recently adopted LP both of which emphasise the importance to be given to the Green Belt.
29. For the reasons give above and having regard to all other matters, I dismiss the appeal.

P R Crysell

INSPECTOR

⁴ Tree Preservation Order 2014 (NO: TPO 1017) 146 to 162 Tilehouse Lane, Shirley, Solihull B90 1PW