



Appeal Decision

Site visit made on 14 August 2024

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

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/R3705/W/23/3334684

Village Farm, Birmingham Road, Ansley, Warwickshire CV10 9PS

- 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 Daniel Swift on behalf of Swift Homes and Developments against the decision of North Warwickshire Borough Council.
 - The application Ref is PAP/2022/0156.
 - The development proposed is the demolition of workshops/building, construction of 6 no. 3 bed, 7 no. 4 bed, garages, associated parking and access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues for consideration are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on highway safety;
 - the effect on flood risk with regard to surface water drainage;
 - the effect of the development on the living conditions of the occupiers of the neighbouring properties with specific regard to privacy and outlook;
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would make adequate provision for affordable housing;
 - the effect on biodiversity;
 - whether the proposal would include appropriate measures for renewable energy generation; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether or not the development would be inappropriate development

3. Paragraph 154 of the Framework states that, other than the exceptions listed, the construction of new buildings should be regarded as inappropriate in the Green Belt. The exceptions include part g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
4. Policy LP3 of the North Warwickshire Local Plan 2021 (NWLP) reflects the Framework and sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Other than in instances where allocations are proposed, Green Belt within the Borough will be protected accordingly.
5. The appeal site comprises a group of former agricultural buildings located to the front part of the site adjacent to the highway and an extensive area of hardstanding beyond and is bound in part by hedge and tree planting. The main part of the site is within the settlement boundary and falls within the housing allocation in the NWLP; *H12 Land at Village Farm, Birmingham Road, Ansley*. However, the land within the site adjacent to the rear boundary extends beyond the development boundary and the allocated site and is located within the Green Belt. The appeal submissions clearly indicate that the rear half of the footprint of the proposed buildings on plots 8 to 11, and the rear gardens associated with those dwellings, would be located on the land beyond the settlement boundary and within the Green Belt.
6. The planning application form indicates the existing use of the site is a haulage business and workshops and the appellant's Statement of Case sets out that the existing and lawful use is for HGV parking and hardstanding. If I were to accept that were the case, in order to meet the exception at the first limb of paragraph 154 g) of the Framework, it is necessary for the development to not have a greater impact on the openness of the Green Belt than the existing development.
7. The appeal proposal seeks to redevelop the site, including the demolition of the existing workshops/building, and the construction of 13 two storey dwellings. At the time of my site visit, the part of the appeal site which lies within the Green Belt comprised an area of hardstanding on which a vehicle and small number of HGV trailers were parked and was devoid of buildings.
8. The proposal would introduce a considerable amount of built development where there is currently none. I have limited information regarding the number and length of time HGVs are parked on this part of the site. Nonetheless, in terms of height, while any domestic paraphernalia within the rear gardens of the properties which could not be controlled through the removal of permitted development rights would be likely to be modest in scale, the proposed 2 storey dwellings would be significantly taller and of greater visual bulk than parked vehicles. They would also be more permanent in nature. The proposed

dwellings on plots 8 – 10 would therefore be harmful to the openness of the Green Belt in spatial terms.

9. The increase in height of the part of the dwellings on the rear part of the site within the Green Belt over and above that of the parked HGVs would lead to the proposal having a greater visual prominence. The proposed dwellings would be set back from the highway and behind the development to the front of the site. Nonetheless, they would, along with their rear garden areas, be seen from nearby residential properties to the south of the site. The part of the development that would encroach into the Green Belt would also be visible in views across the surrounding agricultural land, including public footpaths and in longer distance views along Birmingham Road on the approach to the village from the north. The presence of existing buildings on the front part of the site and on land adjoining and opposite the appeal site, would not diminish this visual impact.
10. Although the appellant has made reference to the second limb of paragraph 154 g) of the Framework and the provision of affordable housing within the scheme, the units proposed on the part of the site within the Green Belt would be open market units.
11. For the foregoing reasons, the development would result in harm to openness of the Green Belt. Accordingly, the proposal would have a greater impact on the openness of the Green Belt than the existing development. Consequently, it falls outside the exception at paragraph 154 g) of the Framework and would therefore constitute inappropriate development in the Green Belt. In that regard the proposed development would fail to accord with Policy LP3 of the NWLP and the aims of the Framework in relation to the protection of Green Belt land. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt.

Highway safety

12. Vehicular access to the dwellings to plots 3 and 13 would be via private driveways directly from Birmingham Road, with the remainder of the dwellings proposed to be served by a new shared access from Birmingham Road between the driveways, which leads to a turning head within the site. A footpath is shown along the internal driveway in part.
13. The Highway Authority (HA) has raised several concerns with regards to the design of the scheme, including the lack of a Stage 1 Road Safety Audit (RSA). It may be that some of the points could be addressed using planning conditions, or other highway legislation. However, it seems to be that the position of the individual driveways in relation to both the location and design of the bellmouth junction at the entrance to the site, the ability for larger vehicles including refuse vehicles to turn within the site and pedestrian safety may have implications in terms of the layout of the site.
14. Notwithstanding the appellant's view that the assessment of the suitability of the access arrangements should lie with the HA rather than a third party though the carrying out of a RSA, based on the evidence before me, I cannot be certain that the proposal would not have an adverse effect in terms of highway safety.

15. I note the appellant's contention that the proposal would offer benefits in terms of highway and pedestrian safety given the historic commercial use of the site which involved HGV movements, which were largely unconstrained by planning conditions. However, given the likelihood of increased pedestrian movements associated with the proposed development, and the access arrangements, including the position of the existing site entrance, are materially different to the existing situation, there is nothing substantive before me to support these assertions.
16. For the reasons set out above I conclude that the proposal would harm highway safety. Accordingly, the proposal would conflict with criterion 6 of Policy LP29 of the NWLP which requires development to provide safe and suitable access to the site for all users. For the same reasons, it would conflict with paragraph 114 of the Framework, which seeks to ensure that safe and suitable access can be achieved for all users. While the proposal would not result in severe residual cumulative impacts on the road network, I have found that it would have an unacceptable impact on highway safety and consequently would fail to comply with the advice at paragraph 115 of the Framework.

Drainage

17. Policy LP33 of the NWLP sets out that water runoff from new development must be no more than natural greenfield runoff rates and developments should hold this water back on the development site through high quality Sustainable Urban Drainage (SuDS), reducing pollution and flood risk to nearby watercourses. In addition, the Framework requires that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
18. The Lead Local Flood Authority's (LLFA) main concern relates to surface water disposal from the development. The proposed means of surface water drainage, as set out in the appellant's drainage strategy¹ is via discharge into the existing combined sewer network located nearby on Birmingham Road, although confirmation has not yet been provided from Severn Trent Water as to whether this would be acceptable.
19. Moreover, notwithstanding the high-level assessment of infiltration potential undertaken by the appellant, the LLFA contend that further testing in accordance with BRE Digest 365 methodology should be carried out to further explore the possibility of an infiltration type drainage strategy in accordance with the SuDS hierarchy. While such an approach would require the appellant's drainage strategy to be revisited, there is no suggestion that surface water from the proposal could not be properly disposed of, having regard to the drainage hierarchy.
20. I note the appellant's suggestion that suitably worded conditions could be imposed to deal with this matter. I see no reason to disagree and if I was minded to allow the appeal, the imposition of planning conditions would ensure that the proposal would incorporate appropriate means of surface water drainage so as to ensure that it would not exacerbate flood risk. In that regard, for the reasons set out above, the proposal would therefore not conflict with Policy LP33 of the NWLP and the aims of the Framework in relation to planning and flood risk.

¹ Flood Risk Assessment and SuDS Strategy by jms Civil and Structural Engineers dated 28th February 2022

Living conditions

21. The separation distance between the front elevations of the proposed dwellings adjacent to the highway and the residential properties on the opposite side of Birmingham Road, which the Council indicate is 17m at the closest point, would fall below the distance of 20m considered to be acceptable by the Council. Nonetheless, given the relationship between the existing dwellings fronting Birmingham Road and the public realm, with a carriageway and footpath between them and the appeal site, there is already a significant degree of overlooking of the front of the properties. Consequently, in this case, given the existing arrangement, together with the separation distance proposed, the development would not give rise to a loss of privacy for the occupiers of the existing dwellings facing the site.
22. The proposed dwelling to Plot 13 would be sited a short distance from the side boundary of the site and the adjoining residential property. The flank elevation of the proposed dwelling would not include first-floor windows. Moreover, any views from the first-floor habitable room windows in the rear elevation of the new dwelling to plot 13 towards the adjoining property would be at an oblique angle. Therefore, the extent of any overlooking would be limited. Despite its height and positioning, the proposed dwelling on Plot 13 would be significantly smaller in footprint and overall scale and size than the agricultural building it would replace. As such, the proposal would not appear as an imposing feature when viewed from the adjoining property or its garden and consequently would not compromise the living conditions of occupiers of the property in that regard.
23. For the foregoing reasons I find that the living conditions of the occupiers of the neighbouring properties facing Birmingham Road would not be harmed in terms of privacy or outlook. In that regard the proposal would not conflict with part 9 of Policy LP29 of the NWLP, which sets out that development should avoid unacceptable impacts upon neighbouring amenities through, among other things, overlooking, and the aims of the Framework in relation to the creation of places with a high standard of amenity for existing and future users.

Affordable housing

24. Policy LP9 of the NWLP requires at least 30% of the housing provided on site to be affordable. The provision of 3 affordable housing units as part of the scheme falls below this requirement, which equates to 3.9 units in this instance. The appellant suggests that given the current economic climate, a more pragmatic approach should be taken in the case of the appeal site, having regard to the provision of housing for local families.
25. However, there is no clear evidence before me to demonstrate that the provision of a policy compliant level of affordable housing would make the proposed development financially unviable, or that the number of affordable units proposed has been robustly demonstrated to be appropriate in this case. Therefore, I conclude that the proposal would fail to make adequate provision for affordable housing. In that regard the proposal would conflict with Policy LP9 of the NWLP.

Character and appearance

26. The appeal site is located on the edge of the settlement with open countryside to the side and rear. While the village is broadly linear, it includes residential cul-de-sacs of varying sizes, to the rear of existing dwellings fronting Birmingham Road. The surrounding residential development is a mix of one and 2 story properties in the form of semi-detached, detached, or short terraces of dwellings of a range of ages and architectural styles.
27. The proposed residential development comprises 2 storey dwellings. While the dwellings to plots 1, 2, 3 and 13 would have a roadside frontage, the remaining units would be arranged around the internal access road in a cul-de-sac layout. Notwithstanding the existing use of the site, a considerable proportion of the land is currently free from built form, with the remainder comprising former agricultural buildings. The proposed development would therefore lead to a considerable quantum of new development beyond the edge of the current built up area of the village, in a prominent position at the entrance to the settlement. However, the effect of the development in that regard should be considered in the context of the housing allocation (Site H12) under Policy LP37 of the NWLP which covers the most part of the site.
28. While the number of units proposed and the suburban form of the cul-de-sac arrangement would give rise to a significant urbanisation of the edge of the settlement, the Officer's report acknowledges that the site lends itself to a single in road with houses off it. In light of this and having regard to the layout of the village overall, the proposal would not be an unduly discordant form of development or at odds with the established pattern of development. The dwellings to the rear of the site would extend beyond the extent of the land allocated for housing. Nonetheless, given the modest degree of encroachment into the open countryside, there is no clear evidence to demonstrate that this would give rise to any significant landscape harm in terms of the relationship between the proposed built form and the adjoining open countryside over and above that of the allocated site.
29. For the foregoing reasons I find that the proposal would not harm the character and appearance of the area. It would therefore accord with Policies LP1 and LP14 of the NWLP in so far as they seek development that integrates appropriately with the natural and historic environment, and conserves landscape character, the general principles in relation to built form set out in Policy LP30 of the NWLP, which require that development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting, and the aims of the Framework which seek to ensure that new developments, among other things, are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Biodiversity

30. The appeal submissions indicate that, using the Warwickshire, Coventry and Solihull Habitat Impact Assessment Calculator, the proposal would result in a habitat biodiversity impact gain of 0.36 units. Even if there was scope to increase this further, through additional landscaping and SuDS features for example, my attention has not been drawn to any specific policy requirement in that regard.

31. Accordingly, I find that the proposal would not conflict with the combined aims of Policies LP1 and LP14 of the NWLP which set out that development should look to conserve, enhance, and where appropriate, restore landscape character and provide, conserve and enhance biodiversity, and Policy LP16 of the NWLP in so far as it seeks to provide net gains for biodiversity. It would also accord with paragraph 180 of the Framework which requires planning decisions to contribute to and enhance the local environment in several ways, including provision of net gain for biodiversity.

Renewable energy

32. Policy LP35 of the NWLP sets out that new development will be expected to be energy efficient in terms of its fabric and use including, where viable, the production of 10% of operational energy from on-site renewables, in support of the Government's Clean Growth Strategy. While specific details of means of renewable energy generation to be incorporated into the development do not form part of the proposal, it is not clear from the evidence as to why such details could not be agreed through the imposition of a suitable planning condition.
33. I therefore find that, should I be minded to allow the appeal, subject to planning conditions, the proposal would include appropriate measures for renewable energy generation and in that regard would accord with Policy LP35 of the NWLP.

Other Considerations

34. The proposal would offer benefits in terms of housing supply, including affordable housing, on a site which is partly within the development boundary and allocated for housing development. This would support the Government's objective of significantly boosting the supply of homes and accord with the aims of the Framework which recognise the contribution small and medium sites, which are often built out relatively quickly, can make to meeting the housing requirement for an area.
35. While I note the appellant's contention that the development would lead to the early delivery of the Council's stepped trajectory for the delivery of new housing within the plan period, I have not been presented with any substantive evidence that the Council is not currently meeting its requirements in that regard or that there is not a realistic prospect of it doing so in the longer term. Moreover, there is no robust evidence before me to demonstrate that the Council is not delivering the number of affordable homes to address its needs within the area. Consequently, I attach moderate weight to the contribution the proposal would make to the delivery of housing, including affordable housing.
36. The proposal would give rise to economic benefits during construction, and upon occupation through local expenditure, and would offer benefits in terms of the vitality of the community. In addition, the site is in a location where future occupiers of the dwellings would benefit from accessibility to services and facilities using means other than the private car. These factors weigh in favour of the scheme, to which I attribute moderate weight.
37. The appellant refers to the part of the Framework which sets out that substantial weight should be given to the value of using suitable brownfield

land within settlements. However, the appeal site extends beyond the confines of the settlement boundary and the allocated site.

38. My attention is drawn by the appellant to residential developments within the village for which planning permission has been granted by the Council. However, the full details of those cases are not before me so as to draw me to a different conclusion.

Other Matters

39. Interested parties have identified a number of other concerns which have not already been addressed above but given my conclusion in relation to the appeal overall, the adverse impacts would not arise.

Green Belt Balance and Conclusion

40. I have found that the proposal would, by virtue of having a greater impact on the openness of the Green Belt than the existing development, constitute inappropriate development in the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The proposed development would also be harmful to highway safety.
41. In light of the substantial weight to be given Green Belt harm, combined with the other identified harm, the weight to be attached to the benefits of the proposal do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to the openness of the Green Belt. Therefore, the very special circumstances necessary to justify the proposal do not exist.
42. For the reasons given above, having regard to the development plan as a whole and all other matters raised, I conclude that the appeal should be dismissed.

E Worley

INSPECTOR