



Appeal Decision

Site visit made on 16 January 2025

by **Zoe Raygen DipURP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 February 2025

Appeal Ref: APP/P1805/W/24/3346123

43A Barkers Lane, Wythall, Worcestershire, B47 6BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
 - The appeal is made by Distrykt Limited against the decision of Bromsgrove District Council.
 - The application Ref is 23/00577/FUL.
 - The development proposed is demolition of an existing dwelling and the buildings associated with the caravan storage and kennels. Erection of 27 dwellings with associated road, landscaping, infrastructure and external works.
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Decision

1. The appeal is dismissed

Applications for costs

2. An application for costs was made by Distrykt Limited against Bromsgrove District Council. This application is the subject of a separate Decision

Preliminary Matters

3. During the Council's consideration of the planning application the number of proposed dwellings was reduced by 1 from 28 to 27. The revised description is reflected in the banner heading above, and I have proceeded on that basis.
4. During the appeal, the Government released a revised National Planning Policy Framework (the Framework) in December 2024. The Framework makes changes to Green Belt policy, amongst other things relevant to this appeal, and both parties have had the opportunity to comment. I have taken those comments into account in my consideration of the appeal.

Main Issues

5. The main issues are:
 - whether the proposal would be 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 the openness of the Green Belt and whether the proposal would conflict with the purposes of the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on flooding;

- Whether the appeal site is an acceptable location with regard to local and national policy and accessibility;
- The effect of the proposal on highway safety;
- Whether the proposal makes acceptable provision for infrastructure;
- Whether the proposal provides acceptable provision of affordable housing; and
- If the proposal is inappropriate development in the Green Belt, 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

6. Policy BDP4.4 of the Bromsgrove District Plan 2011-2030 adopted 2017 (the BDP) outlines the circumstances that the development of new buildings is considered to be inappropriate in the Green Belt. These broadly align with criterion a) to g) of paragraph 154 of the Framework.
7. Notwithstanding paragraph 155 of the Framework, in the first instance I have considered whether the proposal would comply with paragraph 154 g) of the Framework which states that the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not cause substantial harm to the openness of the Green Belt would not be inappropriate development. There is no dispute that the land is previously developed. I agree. Much of the land is covered by hardstanding or buildings. There is a small area of greenfield associated with the kennels. However, overall I am satisfied that the appeal site meets the definition of previously developed land in the Framework.

Effect on openness

8. At the time of my site visit much of the site was covered in caravans, sited close to each other with little space between the rows other than to allow access. In the areas of the site where caravans are not located, towards the west, there are buildings to the north of the site, but the southern part is open and has a green feel to it, being devoid of development. Nevertheless, there are very few views out to the surrounding open countryside. Equally, due to the existing pattern of development and the boundary treatment which incorporates large trees the site is relatively contained such that views of the caravans and single storey buildings are limited. Nevertheless, given that there are limited views of the structures and the presence of some open land within the site, it contributes positively to the visual openness of the wider Green Belt.
9. The 27 houses would be higher than the caravans being one and a half storey. They would, particularly along the northern edge of the site, be located close together with relatively small gardens, so that limited space for planting would be available. Indeed the appellant's Landscape and Visual Impact Assessment (LVIA) reports that there would only be an increase of 23% of soft landscape elements and a 3% increase in the footprint of buildings. The increase in height of the structures would make a significant difference to the spatial impact on openness

as would their proximity to each other leaving little space between them. In my view, the increase in height would also make them more visible in the surrounding area, being more discernible through and above the trees. Furthermore, the increase in built development on the western end of the appeal site would have a further spatial effect on openness. This together with the much increased daily activity from houses as opposed to stored caravans means that the proposal would have an impact on openness. Nevertheless, altogether while there would be an increased effect on openness, I am not convinced that it would have a substantial effect, due to the existing use of the site and the degree of visual containment.

10. The Council do allege conflict with Purpose (c) of the Green Belt, regarding assisting in safeguarding the countryside from encroachment. I appreciate that much of the site is covered by motorhomes and caravans which would not be included in the definition of previously developed land, being temporary structures. In addition, the size and scale of the houses would be different to the structures they would replace, particularly in terms of height, and would have the potential to be visible from the surrounding area. Nevertheless, while I am aware that the appeal site is within the countryside for the purposes of the development plan, on the ground the appeal site is overwhelmingly developed with hardstanding and this developed area would not harmfully extend into the surrounding countryside. As such I consider that there would be no conflict with this Purpose.
11. Reference is made to a previous appeal decision on the appeal site¹. However, I note that appeal related to the caravan site only, excluding the former kennels to the west. Furthermore, it related to the provision of only 18 caravans with a domestic layout, replacing a use for the storage of up to 100 caravans. This is very different to the proposal before me now. Hence, I have given the conclusions reached limited weight in my determination.
12. For the reasons above given that the harm to the openness would not be substantial, I conclude that the proposal would not be inappropriate development in the Green Belt in accordance with paragraph 154 g) of the Framework and would comply with Policy BDP4 of the BDP in this respect.

Character and appearance

13. Barkers Lane is a pleasant country lane which has housing either side before reaching open countryside. The housing is mostly large, detached dwellings set back from the road in spacious well stocked gardens. Dwellings are a mixture of bungalows and two storey houses but are predominantly low level. As a result, the area has a spacious open semi-rural, verdant character and appearance.
14. The appeal site is located to the rear of the houses on the north side of Barkers Lane. As described, it is previously developed land and contributes little to the character and appearance of the area in its current form. I agree with the appellants LVIA that due to intervening topography, vegetation, the orientation, fenestration, and height of buildings the site is well concealed with the visual envelope being small. From the four public viewpoints within the visual envelope the caravans are only particularly visible from viewpoint 1 along the access to the appeal site. From the longer range views the caravans are barely discernible with the tops of the caravans visible in some. Views from the four private viewpoints

¹ APP/P1805/W/20/3246758

would be closer with mostly views from first floor rear windows towards the site where caravans and buildings are visible.

15. The site is in the Arden National Character Area 97 (NCA) which is described as comprising farmland and former wood pasture with mature oaks set in hedgerows, distinctive field boundaries, historic parklands and narrow river corridors on the doorstep of a heavily urbanised area. This is reflected in Worcestershire County Council's Landscape Character Assessment 2004 within AR06 : Wythall Timbered Pastures landscape character area. This area is described as "A small-scale, settled, pastoral landscape characterised by filtered views through densely scattered hedgerow trees. The oak trees convey a sense of scale and stature combined with a feeling of maturity and history. This is a complex landscape of relic commons and former wood pasture, reflected today by an intermixed pattern of irregular fields and scattered farms occurring next to areas of geometric enclosure, straight roads and strings of wayside dwellings. This was generally reflective of my observations of the area and the only characteristic that the appeal site strongly displays is mature oaks set in hedgerows with filtered views, marking much of the boundary of the site.
16. The proposal would see the retention of the mature oaks and hedgerow around the boundary of the site, as well as an increase in soft landscaping and planting of trees and hedges. This would go some way to meeting the aims of the Arden NCA of retaining the mature oaks in hedgerows, urban tree planting and creating new green infrastructure.
17. However, a further aim is to enhance urban areas and fringes through sympathetic building and landscape design. The proposal, particularly on its northern edge, closest to the open countryside, would create an almost solid line of built form, with very small gaps between the dwellings which would not reflect the large plot sizes or open spacious character and appearance of the existing dwellings. The dwellings would be higher than the caravans, with some dwellings being 7 metres high, although it is acknowledged that they would be of a similar height to the existing dwellings in the area. Nevertheless, the houses on the northern edge of the appeal site would present an uncharacteristic stark line of built form which would be particularly visible above and through the trees, appearing obtrusive, from viewpoint 4 and viewpoint 3 and along the bridleway 584B running to the east of the appeal site particularly in the winter when the trees lose their leaves. I appreciate that as identified in the LVIA there is some planting along this boundary, but it is not particularly dense, and the small rear gardens would afford little opportunity for substantial planting to provide an appropriate landscape buffer to the open countryside beyond. The standard suburban cul de sac of dwellings would be at odds with the identified semi-rural character and appearance of Barker Lane.
18. Clearly there would be some benefits in that the caravans would be removed, but this could be achieved through a scheme that more readily reflects the existing character and appearance of the area. Furthermore, due to their limited size and scale the caravans are not as visible in the wider area as the proposal would be. The proposal would also make effective use of the land, but it would be at the expense of the character and appearance of the area and prevent the successful integration of the proposal into the existing built form bringing it into conflict with paragraph 129 of the Framework.

19. For the reasons above, I conclude that the proposal would be harmful to the character and appearance of the area. It would therefore conflict with policies BDP1, BDP7, BDP19, BDP24 of the BDP and the High Quality Design Supplementary Planning Document. Together these require that development makes the most efficient use of land whilst maintaining character and local distinctiveness and incorporates a high quality green infrastructure.

Flooding

20. Although much work has been done by the appellant on flooding, the North Worcestershire Water Management team (NWWM) is seeking confirmation that either the ground can infiltrate and if, as it suspects is not the case, that water can drain effectively. The site falls within fluvial flood zone 1 (low risk of flooding from rivers or the sea) and is not shown to be susceptible to surface water flooding, although NWWM has received regular reports of flooding along the lane including homes on Barkers Lane being affected and therefore wants to ensure that the risk of flooding is not increased to these properties by the proposal.
21. Due to objections from the existing occupier, based on the effect of excavations on their business, field permeability tests have been unable to be carried out. On this basis the appellant requests that the matters are dealt with by the imposition of a condition as per the recommendation from NWWM for the previous planning application² on the appeal site in 2019.
22. The concern from NWWM with that approach here is that if further detail is not provided before a decision is made, there is a very real chance that the site might gain planning permission but not have a suitable drainage outfall, in which case either the site can't get built as the pre-commencement condition can't be approved or gets built anyway but with unsuitable drainage which increases flood risk. I would agree. Given the existing record of flooding in the area, as well as it being unlikely that infiltration will be possible or that Severn Trent Water would approve a connection to the sewer, then it is important that there is surety that an acceptable sustainable drainage scheme can be achieved.
23. For the reasons above, I conclude that in the absence of the appropriate information then I cannot conclude that the proposal would not lead to flooding of the surrounding area. The proposal would therefore conflict with policy BDP23 of the BDP which requires that development does not increase the risk of flooding elsewhere.

Location

24. The appeal site is not located in, or near to, any identified Small Settlement under Policy 2 of the BDP which seeks to direct development to settlements which have existing services and facilities to reduce the need to travel.
25. Paragraph 110 of the Framework indicates that significant development should be focussed on locations that are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This paragraph goes on to say that opportunities to maximise transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

² 19/00951/FUL

26. Framework paragraph 115 seeks to ensure amongst other things, that sustainable transport modes are prioritised taking account of the type of development and its location, safe access can be achieved and any significant impacts on the capacity of the highway network or highway safety can be acceptably mitigated. The Council raises concerns in both respects.
27. In this matter I have based my assessment on the provision of 26 new houses generating additional movements given that there is already a dwelling on site that would be demolished. Even so 26 houses would have the potential to generate a significant amount of travel.
28. I saw at my site visit that nearest services and facilities are an MOT garage, a veterinary practice, a primary school, Becketts Farm which sells fresh produce and includes a restaurant and cafe and a pub all within about 1.7km. Manual for Streets (MfS) states that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes/800m walking distance of residential areas. This is a realistic distance when considering convenience, inclement weather and when accounting for young children, those with mobility issues and the distance and time taken to undertake the whole journey, including the return leg. That said, MfS also states that 800m is not an upper limit and in doing so refers to PPG13, which in turn states that walking offers the greatest potential to replace short car trips, particularly those under 2km. However, PPG13 is no longer extant and therefore this statement should be given limited weight. In this instance the distance would be lengthy and would require walking alongside a busy dual carriageway (50 mph) along a sometimes narrow path. There is a crossing point, but it is not close to the appeal site. In any case that would not reduce the lengthy distance to the services and facilities on offer.
29. There are bus stops within about 550m and 750m of the appeal site, well above the recommended walking distance of 400m. The service to Birmingham is on the opposite side of the dual carriageway accessed via the underpass. The bus stop for services to Redditch is more accessible but the service is limited to Monday to Saturday and does not run in an evening. While this may not be uncommon for rural areas, the bus stops would still be a significant walking distance from the appeal site, serving a large number of dwellings.
30. Earlswood train station is approximately 2km from the site. However, access to the station is via narrow country lanes with no footway, lighting or dedicated cycle lane making it more likely that commuters would travel by car.
31. There would be a requirement for each dwelling to have an electrical vehicle charging point under the Building Regulations. However, that does not mean that each property would have an electric car.
32. Therefore it is likely that future occupiers would be dependent on the car to access not only the local facilities, but those further afield which offer a wider range of services to meet the day to day needs of residents. I conclude therefore that it would conflict with Policies 2, 16 and 22 of the BDP and paragraphs 110 and 115a of the Framework which require that development has accessibility to public transport options and be well served by public/sustainable transport, existing local facilities and infrastructure and that development which exacerbates motor vehicle dependence should not be permitted.

Highway safety

33. The Highway Authority raises concerns, particularly regarding the internal layout of the proposal and that it would not be accepted for adoption. In addition, it requires further detail regarding the visibility splay and radii. There is no substantive evidence regarding the impact of the proposal on highway safety.
34. The appeal proposal would use an existing junction that would be improved. I saw that the road is relatively straight with good visibility in either direction when accessing and egressing the site. Furthermore, the existing use of the site would generate highway movements and in particular larger vehicles for which there are no reported road traffic collisions within the last five years. While it is likely that here would be more day to day traffic movements than the existing use, for the reasons above, in the absence of evidence to the contrary, I therefore conclude the proposal would not be harmful to highway safety and it would comply with Policy 16 of the BDP in this respect which requires that development incorporates safe and convenient access.

Infrastructure

35. The Council has requested contributions towards waste management, highways, health provision, off-site public open space as well as a monitoring fee all to be secured by way of a planning obligation.
36. The appellant makes no objection to the payment of £19,200 towards the cost of a capital project at a local GP practice to increase capacity or the payment of £43,684 towards the improvement of a range of facilities at Wythall community park to provide facilities for the increased population that would result from the development. From the information before me I am satisfied that these would meet the tests in the Community Infrastructure Levy Regulations 2019 (the CIL Regs) as well as those in the Framework.
37. The Council has also requested a contribution of £41.80 per dwelling for the provision of waste bins in accordance with Policies BDP6 and BDP 22 of the BDP. However, the appellant's design and access statement states that as the estate road is intended to remain in private ownership the developer will provide refuse collection bins for waste and recycling and enter into a contract with an independent licensed refuse collection company to carry out fortnightly collections. This could be subject of a condition attached to any permission. Therefore, I do not consider this obligation to be necessary to make the development acceptable. Consequently, it would not meet the tests set out in the CIL Regs or the Framework.
38. In addition, contributions of £1776 to Community Transport as well as £94,929 towards School Transport to be spent on improvements to the footway alongside the A435 and a crossing facility on Station Road have been requested. The development is likely to lead to an increase in members of the population who would use both services. I note that the appellant disputes the latter contribution as they consider they have demonstrated to the Highway Authority that it had failed to properly maintain the local footpaths. Nevertheless, I saw that the existing path was narrow in places and this money would be used to improve facilities for new occupiers, rather than maintenance, and would be in accordance with policies BDP6 and BDP16 of the BDP which require financial contributions towards public transport, pedestrian, cycle and highway infrastructure to ensure the sustainable

movement of people. Therefore I am satisfied that the contributions would meet the tests in the CIL Regs and the Framework.

39. However, there are no obligations before me to secure any of the contributions which meet the tests. The appellant states that at no point during the application did the Council offer a S106 agreement. However, each party should take responsibility for producing a S106 agreement that is agreeable to all and secures the relevant contributions.
40. For the reasons above I conclude that the proposal would not provide the appropriate level of relevant infrastructure. It is therefore contrary to policies BDP6 and BDP16 of the BDP.

Affordable housing

41. Policy BDP8 of the BDP requires that this proposal should provide 30% of the dwellings as affordable on the site, in the form of primarily smaller units. The scheme proposes 6 units as First Homes³. However, the provision of 26 additional homes as proposed should deliver 8 affordable homes. There is no viability assessment to support the reduction, and the provision of First Homes is only now supported in the Framework when the Council judges that they meet local need. There is no evidence on this before me.
42. In any case, not only would the proposal provide insufficient affordable housing there is no mechanism before me to secure its provision and retention as affordable as all times, such as a planning obligation.
43. For the reasons above I conclude that the proposal does not provide an acceptable level of affordable housing and hence would be contrary to policy BDP8 of the BDP.

Other Matters

44. The appellant refers to planning applications which they consider similar to this proposal which the Council granted planning permission for⁴. There is limited information before me but the Council report that when considering the 2020 application there were more facilities closer to the site than the case before me now resulting in a different decision. In the later one the application site was adjacent to an identified settlement in Policy BDP2 of the BDP with accessibility to a range of services and facilities. There is nothing compelling before me to indicate otherwise.

Planning Balance and Conclusion

45. It is common ground that the Council is unable to demonstrate a five year housing land supply. Following the amendments to the Framework the Council confirms that it stands at 1.98 years which is a substantial shortfall. There is therefore a demonstrable unmet need for the type of development proposed. In the absence of a five year housing land supply, 26 additional houses would contribute significantly to the housing land supply, and I give that substantial weight. The provision of affordable housing, albeit less than required would attract limited weight given there is no means to secure its provision. The proposal would be on

³ Email dated 31 May 2023

⁴ 20/0163/OUT & 21/01808/OUT

previously developed land and make effective use of land which also attracts significant weight.

46. There would be social and economic benefits during construction and from future occupier spend in the area which would attract moderate weight. Environmental improvements would also attract minor weight.
47. While I have found that the proposal is not inappropriate in the Green Belt, I have also found that it would conflict with the Council's spatial strategy and in a location which is not conveniently accessible other than by the car contrary to paragraphs 110 and 115a of the Framework. Furthermore, the proposal would be harmful to the character and appearance of the area contrary to paragraph 139 of the Framework and would not provide the appropriate infrastructure or an acceptable level of affordable housing contrary to paragraph 66 of the Framework. Finally, I cannot be sure the proposal would not lead to the flooding of the surrounding area contrary to the environmental objective of the Framework. Together these are significant harms which I give substantial weight.
48. The adverse impacts would significantly and demonstrably outweigh the benefits I outline above when assessed against the Framework taken as a whole, particularly having regard to key policies for directing development to sustainable locations (paragraphs 110 and 115a), making effective use of land (paragraph 129), securing well-designed places (paragraph 139) and providing affordable homes (paragraph 66).
49. Therefore, the proposal conflicts with the development plan as a whole and there are no material considerations in this case, including the Framework, which indicate a decision other than in accordance with the development plan.
50. In light of the above, and having considered all other matters, the appeal is dismissed.

Zoe Raygen

INSPECTOR



Costs Decision

Site visit made on 16 January 2025

by **Zoe Raygen DipURP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 February 2025

Costs application in relation to Appeal Ref: APP/P1805/W/24/3346123

43A Barkers Lane, Wythall, BIRMINGHAM, Worcestershire, B47 6BY

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Distrykt Limited for a full award of costs against Bromsgrove District Council.
 - The appeal was against the refusal of planning permission for the demolition of an existing dwelling and the buildings associated with the caravan storage and kennels. Erection of 27 dwellings with associated road, landscaping, infrastructure and external works.
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Decision

1. The application is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the Council has acted unreasonably by refusing to allow a pre-application submission for the proposed development, withholding information from the planning committee that could have led to a different decision and incorrectly interpreting the requirements of paragraph 11d of the National Planning Policy Framework (the Framework).
4. It is right that there is a requirement for the Council to work with an applicant in a positive and proactive manner when considering planning applications. It is also correct that the Council refused to accept an application for pre-application advice.
5. However, as specified on the Council's website, the Council will not deal with any pre-application enquiry submitted to the Development Management function where a parallel submission to the Strategic Planning Team regarding the plan review process has been lodged. The applicant was advised of this in an email dated 29 June and the application fee was subsequently refunded. The Council has been very clear in the way it deals with applications for pre-application guidance and therefore I do not consider that the Council has been unreasonable in this respect.
6. The application was reported to the Planning Committee at its meeting on 11 December 2023 where Members considered a thorough application report, an officer update and the views of the applicant who was entitled to speak at the meeting.

7. The planning application report refers to paragraph 149g of the Framework as it was then, and while it does allude to the proposal having a greater impact on openness than the existing structures on site, it does conclude that the proposal would have a substantial impact on openness. I am satisfied therefore that the correct test was applied. The first paragraph of the planning application report refers to paragraph 138 of the Framework. Therefore Members would have been aware of the purposes of the Green Belt in their considerations and the effect of the development on these purposes is further explained in the following paragraphs.
8. The application report refers to the applicants LVIA but discounts it in relation to the assessment of the openness of the Green Belt. However, I am satisfied that the issues raised in the LVIA regarding openness have been assessed in the determination of the planning application in talking about the site in its current form. Members also had access to the Landscape Officers comments which are included in the report.
9. The fact that the Council, or myself in my decision, did not agree with the applicant is not unusual in these circumstances. Furthermore, I found in my decision that the previous appeal on the site related to the caravan site only. It proposed only 18 caravans with a domestic layout, replacing a use for the storage of up to 100 caravans. This is very different to the proposal before me for consideration now and hence I gave the conclusions only limited weight in my determination.
10. The Council in its conclusion in the application report clearly sets out the correct balances to be carried out, first in respect of the Green Belt and secondly with regard to paragraph 11d of the Framework. As it has found harm to the Green Belt then it correctly identifies that paragraph 11di is relevant.
11. As well as the application report, the Council also provided cogent reasoning in its statement of case for this appeal which reinforced its decision having reference to the development plan and the Framework. Therefore I do not consider that the Council has acted unreasonably in this respect.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, for the reasons given above, I refuse the application for an award of costs

Zoe Raygen

INSPECTOR