
Appeal Decision

Site visit made on 30 September 2014

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 14 October 2014

Appeal Ref: APP/P1805/A/14/2221767

Land to the rear of 1-6 Smedley Crooke Place, Redditch Road, Hopwood, Bromsgrove, B48 7TP.

- 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 Cawdor Capital Hopwood Limited and Morris Homes Ltd. against the decision of Bromsgrove District Council.
 - The application Ref. 12/1040, dated 22 November 2012, was refused by notice dated 10 January 2014.
 - The development proposed is the construction of 21 new houses.
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Decision

1. The appeal is dismissed.

Application for costs and procedural matters

2. An application for costs was made by Cawdor Capital Hopwood Limited and Morris Homes Ltd. against Bromsgrove District Council. This application is the subject of a separate Decision.
3. I have specified the appellants as the companies set out in the bullet points above, rather than Mr D Rickett as used in the appeal form, as he appears to be an agent and the appellants' names that I have used are consistent with those listed in the planning application.
4. The Council's decision notice on the application refers to an outline proposal for 21 dwellings but the original application forms specify a full application for 22 dwellings. However, it is evident that during the application process, revised drawings were submitted for 21 dwellings in a detailed site layout and the proposal involves other detailed plans including the elevations of all of the dwellings. I have therefore considered the appeal on the basis of the revised plans and constituting a full application.

Main Issues

5. The main issues are:
 - Whether the proposal constitutes 'inappropriate development' in the Green Belt and the effect on its openness;
 - Whether the Council can demonstrate a five year supply of deliverable housing sites;

- If inappropriate development, 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

Background

6. The site, which is said to extend to about 0.8ha, lies on the southern edge of the village of Hopwood which is situated in the Green Belt generally to the south of Birmingham. The site is roughly square in shape and has existing residential development to the north and along the northern part of the eastern boundary while the remaining land to the east and to the south is undeveloped and comprises open paddocks enclosed by hedges or is overgrown scrub land. The site has access to the A441 (Redditch Road) just before a roundabout junction with the Birmingham Road. The site, which is mainly flat, is contained by hedgerows on most of its boundaries although there are no significant and mature trees within the main part of the site.
7. It is proposed to develop the site residentially and construct 21 new dwellings off a new access road leading directly off the roundabout. 14 of the new dwellings would be detached; 2 semi-detached; and 5 would comprise a terrace of five properties.
8. The appellants also refer to the planning history of the site where the Council granted an Established Use Certificate (EUC) in 1985 which certified that at that time the use of the land for the storage of plant was established. The appellants say that the site can continue to be used for the open storage of plant and that this use has not been abandoned.
9. I will deal with this planning history in due course, but for the record, at the time of the accompanied site visit, the site contained some 20 'portacabins' which appeared to be in use as a site office, for storage purposes and for sleeping accommodation. The remainder of the land, which generally had a surface of mixed rubble and loose material, was used in places for the storage of drums/ coils of electricity and other cables/pipes, together with assorted plant and vehicles which I would describe as medium sized.

Whether inappropriate development in the Green Belt and the effect on openness

10. The Council refers to saved policies DS2 and S9 of the Bromsgrove District Local Plan (2004) in the development plan which relate to development in the Green Belt. Policy DS2 indicates that permission will not be given for the construction of new buildings unless the development is one of the specified exceptions. Similarly policy S9 relates to new residential development and this sets out exceptions to the general presumption against new buildings. The criteria specified in both policies generally accorded with the provisions of PPG2 (Planning Policy Guidance 2 – Green Belts) as applying at the time of adoption of the Plan. However, this national guidance has now been superseded by the National Planning Policy Framework (the Framework) issued in 2012. The Framework represents up-to-date government policy and is a material consideration. Accordingly, where there is any inconsistency between the development plan policy and the Framework I have to give the latter greater weight.

11. Clearly, the erection of new buildings in the Green Belt beyond a village would normally constitute 'inappropriate development', however, the Framework recognises as an exception, development which would involve "limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use...which would not have a greater impact on the openness of the Green Belt than the existing development".
12. The appellants and the Council dispute whether the continuing use of the land for open storage is lawful and whether the land constitutes a 'green field' site or a 'previously developed' brownfield' site. Although the site does not contain any buildings at the moment, the actual land itself displays the characteristics of having been previously developed even if that use did not involve buildings or permanent structures.
13. In relation to the guidance in the Framework, having regard to the planning history of the site that has been submitted, I find that even if the lawful use is disputed, it is clear that, at least, the site is 'redundant' and the proposal would involve the complete redevelopment of the land. However, within this exceptional category defined by the Framework, it is also necessary to consider whether the new development would have a greater impact on openness.
14. In order to assess this, at the site visit I looked at the present environs of the site from the public realm to the east, south and west and also considered the proposed layout for the 21 dwellings from these points. At the moment, the open storage of plant and equipment is not prominent and the generally low temporary buildings, materials, vehicles and equipment are visually contained by the roadside hedge along the southern and western boundaries of the site.
15. No doubt at other times in the past, the open storage of plant on the land may have been more conspicuous especially in the winter. Nevertheless, it appeared to me that notwithstanding some variation of impact in the open storage use, the land has the fundamental characteristic of being mostly open and this contrasted sharply with the permanent housing development around Smedley Crooke Place and Woodpecker Close, and the ribbon frontage development on the western side of Redditch Road.
16. In my judgement, the redevelopment of the site with housing as proposed would result in a fundamental change to the open character of the land and harm its contribution to the Green Belt. While there would be harm to openness itself, this change would also be very apparent in the views of the land from the Redditch and Birmingham Road, and I do not consider that the retention of some of the roadside hawthorn hedge would make the presence of the buildings much less conspicuous.
17. Overall on this issue, I conclude that the proposal would constitute 'inappropriate development' in the Green Belt as it would not fall within the category of exceptional development set out in the Framework, through the redevelopment of a previously developed site, as it would have a greater and harmful impact on the openness of the Green Belt compared with the existing (or previous) development associated with an open storage use. I therefore find the proposal does not accord with the relevant part of the Framework, to which substantial weight should be given, and to the less up to date relevant part of the development plan.

Other material considerations – Housing land supply

18. The formal reasons for refusal refer to saved policies DS2 and S9 of the Bromsgrove District Local Plan (2004). The appellants' agent says that the Council cannot demonstrate a five year supply of deliverable sites for new housing development (HLS) in accordance with paragraph 47 of the Framework and that paragraph 49 applies. This advises that policies in the development plan regarding the supply of housing should not be considered up to date in the context of the presumption in favour of sustainable development.
19. The Council says that the appellant's submissions relate to a previous position regarding HLS and that the latest position statement dated April 2014 demonstrated a 5.03 year supply with a 5% buffer, when set against the target in the emerging Bromsgrove District Plan. Nevertheless, the Examination into that new plan is ongoing and I understand that the examining Inspector has asked the Council to produce further evidence about the objectively assessed housing need. This was submitted by the Council on the 1 September 2014 so that the examination can progress. Given that the Council's assessment of the objectively assessed housing need has not yet been included in a local plan which has been found to be 'sound', I cannot place much weight on the indicated target at this stage or the consequential analysis of housing supply to meet this target.
20. Notwithstanding these factors about HLS, it appears to me that while the formal reasons for refusal quote policies from a local plan which is of some age, they relate to the issue of new buildings in the Green Belt rather than being primarily concerned about restricting the supply of general new housing land. I therefore find that these are not relevant policies to which paragraph 49 of the Framework should apply.

Other considerations

21. Concerns have been raised by some local residents about the access to the site and the lack of a crossing in Redditch Road for the residents of the new houses to be able cross the local road system in a safe manner. It is apparent from the committee report that the Highway Authority had initial concerns about the proposal but the amended plans submitted regarding the layout overcame these concerns subject to some form of financial contribution towards highway improvements. There is therefore no clear evidence before me to show that the proposed development will not have a satisfactory access and it is likely that improvements to pedestrian safety stemming from the new housing development could reasonably be secured by a condition.

Planning Balance

22. Bringing together my conclusions on the main issues, I have found that I should not give much weight to the relevant development plan policies DS2 and S9, but this is because of their compliance with the now cancelled PPG2 rather than the current Framework, and not because they restrict the supply of housing if there is no demonstrated HLS.
23. The development is more properly assessed in relation to the more recent guidance in the national Framework which is a material consideration. While this seeks to boost significantly the supply of housing, the Framework also makes clear that the protection of the Green Belt is a core principle and that

- 'inappropriate development' should not be approved in the Green Belt except in very special circumstances.
24. In this case, the use of the land is a material consideration. While the nature of the lawful use is disputed by the parties, even if the land was at least a redundant 'previously developed' site, the evidence suggests that this use still resulted in a mainly open character with temporary buildings, materials and plant. This accords with my observations at my site visit. The Framework indicates that such temporary buildings should be excluded from consideration and I consider that the housing development proposed would have a fundamentally different built character in comparison and this would materially harm the 'openness' of the Green Belt. As such, the proposal does not constitute an exceptional case in accordance with paragraph 89 of the Framework but conflicts with it and substantial weight has to be given to this harm.
25. The proposal would have some positive benefits. It would add to the supply of housing locally and make provision for affordable housing, however these benefits would be of a general nature and the number of units involved would not be significant. Although the appellants contend that the removal of a 'non-conforming use' would benefit local amenity and neighbouring residential occupiers, the extent of the lack of 'conformity' or the environmental problems associated with it have not been shown to be substantial, nor corroborated by the local community or my own observations at my site visit. I can therefore not give these aspects much weight. In total, I find that these positive general benefits do not outweigh the harm caused by being inappropriate development and the harm to openness in the normal planning balance. I therefore do not need to consider whether special circumstances apply.
26. I conclude that in these circumstances the proposal does not accord with the Framework when read as a whole, and does not constitute sustainable development as the harm to the Green Belt means that the environmental dimension is not fulfilled even though there are elements of the proposal that support the economic and social roles.
27. The Parish Council refers to the emerging Neighbourhood Plan, but I have not been able to give this document much weight at this stage in its preparation and because its context has not yet been established through the adoption of the Bromsgrove Local Plan. Nevertheless, my conclusions do not conflict with the emerging plan, as far as I have been made aware of its provisions.

Conclusion

28. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR