



Appeal Decision

Site visit made on 10 January 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/L3245/W/22/3304958

Roundabout Farm, Roughton Lane, Roughton Easting: 376193 Northing: 293892

- 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 Mr Brindley against the decision of Shropshire Council.
 - The application Ref 22/01124/FUL, dated 2 March 2022, was refused by notice dated 23 June 2022.
 - The development proposed is the demolition of existing barn and the development of 3 new dwellings with associated infrastructure.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site is located within the Green Belt. The main parties have agreed that the proposal would represent inappropriate development in the Green Belt as defined in development plan policy and the National Planning Policy Framework (the Framework). I concur with that position.
3. Accordingly, the main issues in this case are:
 - 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 proposed development would be in a suitable location, having regard to the relevant policies of the development plan which seek to manage the location of new development and access to services; and
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Openness

4. The appeal site currently comprises an agricultural barn which is a single storey steel framed building with concrete block walls and corrugated metal sheets with a pitched roof. The site is surrounded by agricultural land and is accessed via a single width private access track. The appeal proposal seeks the demolition of the existing barn and the subsequent erection of 3no. two storey dwellings.

5. Paragraph 137 of the Framework identifies that openness is one of the essential characteristics of Green Belts, along with their permanence. Openness has both a spatial and visual aspect and intrusion on either can, individually or collectively, impact the openness of the Green Belt. Policy CS5 of the Shropshire Local Development Framework Core Strategy (adopted March 2011) (CS) seeks to control development in the Green Belt in line with Government guidance. Although this policy refers to the now withdrawn PPG2 and not the Framework, both set out the general presumption against inappropriate development in the Green Belt and therefore I find Policy CS5 is consistent with the Framework. Policy MD6 of the Shropshire Council Site Allocations and Management of Development Plan (adopted December 2015) (SAMDev) further requires development to demonstrate that it does not conflict with the purposes of the Green Belt.
6. On the evidence submitted, the proposed development would reduce the built form on the site, with the Council stating it would result in 2.24% less volume and a reduction in the overall footprint of approximately 90m². However, although the proposal would result in a modest reduction in volume and footprint the consideration of openness includes taking other factors into account, including a visual aspect.
7. The existing agricultural barn sits relatively low in the landscape and is set down from the private access track which runs in front of it. The barn has a ridge height of approximately 6.8 metres and relatively low eaves, with the eaves nearest the access track only measuring around 1.7 metres in height compared to 3 metres on the side facing the agricultural field. The buildings low setting along with its low eaves height significantly reduces its visual prominence in the immediate surrounds.
8. Though the ridge height of the proposed new dwellings would only be approximately 10 inches taller than that of the existing barn, their eaves height of around 5 metres would be significantly taller than those of the existing barn. This significant raising of eaves levels coupled with the marginal increase in overall height would result in the proposed dwellings having a considerably bulkier appearance than the existing development, such that the dwellings would be more visually prominent in the surrounding area. Their presence would also be further highlighted by the introduction of domestic curtilage both to the front and rear of the proposed dwellings, within which it is likely that several vehicles and domestic paraphernalia would be placed further impacting on the openness of the vicinity.
9. For the above reasons, I conclude that the proposal would have a greater impact on the openness of the Green Belt than the existing development and would be contrary to Policy CS5 of the CS and Policy MD6 of the SAMDev. The scheme would also conflict with the purposes of Green Belt policy, as stated in paragraph 137 of the Framework, to keep land permanently open.

Character and Appearance

10. The site consists of an existing single storey agricultural barn which is set back from Roughton Lane. Though there is sporadic built development in the vicinity in the form of dwellings and farm buildings, the area is inherently rural in character with large areas of open agricultural land. The existing dwellings in the locality are predominantly of rural character and sat within generously sized plots.

11. Though set back some distance from Roughton Lane, due to the relatively open nature of the site the existing building is visible in wider views. Despite its visibility, by virtue of its low setting and utilitarian design the existing building does not appear as a visually prominent feature. The existing building is one which is commonly found in the countryside and one which fully reflects and harmonises with the rural character of the surrounding area.
12. The appeal proposal seeks the demolition of the existing agricultural building and subsequent erection of 3no residential dwellings. Whilst the proposed dwellings would be in a similar position to and have a reduced footprint and volume to that of the existing building, I find that their appearance would be domestic and suburban in character with their front elevations dominated by double garages. As a result, the proposed development would have an urbanising effect on this part of the countryside.
13. The proposed dwellings would also sit within broadly rectangular and regular shaped plots, and front onto the private access track resulting in a linear form of development. This linear and close-knit form of proposed development would be out of keeping with the prevailing pattern, layout, and rural character of the area.
14. The appellant has provided photographs of existing developments located within a 4km radius of the appeal site which are considered to be similar to the appeal scheme and demonstrate that linear forms of development are common within the surrounding area. However, little information has been provided as to the exact location and context of these existing properties, and in any event many of the photographs show buildings which are of significantly more rural design and appearance than the appeal proposal. Therefore, this does not alter my findings above.
15. For these reasons, the proposal would be harmful to the character and appearance of the area. Consequently, the proposal would conflict with Policies CS6 and CS17 of the CS and Policy MD2 of the SAMDev which seek, among other matters, to ensure that development protects, restores, conserves, and enhances the natural and built environment taking into account local context and character.

Suitable Location

16. The appeal site is located outside of any identified settlement boundaries and is therefore considered to be in the countryside. Policy CS1 of the CS outlines the strategic approach to development across the plan area. This details a hierarchical approach to residential development towards Shrewsbury (25% share), Market Towns and other Key Centres (40%) and rural areas (35%). This is supported by Policy MD1 of the SAMDev which states that sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres and the Community Hubs and Community Cluster settlements. Policy CS5 of the CS and Policy MD7a of the SAMDev strictly controls development in the countryside whilst providing a number of exceptions for new dwellings.
17. The proposed development does not meet any of the identified exceptions and therefore the appeal scheme is clearly in conflict with the above policies. Furthermore, the Council state that the site is located some distance away from services and facilities, the surrounding roads are unlit with no footpaths, and that there is very limited public transport available near the site. As a result,

they contend that future occupants would be heavily reliant on the private car. Following my own observations on site I concur with this view.

18. However, the site benefits from an extant permission¹ under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the change of use of the barn into 5no dwellings.
19. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (the Act) sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Council acknowledge that the presence of this extant permission is a material consideration, however they consider that as permitted development rights existed under the GPDO the Council could not challenge the suitability of the location for housing, whereas under a full planning application they are obliged to consider all relevant planning issues and determine the proposal in accordance with the development plan.
20. The appellant has referred to a Court of Appeal Judgement² relating to fallback positions. This judgement clarified the principle that when considering proposals for new development, decision makers should have regard to the fallback position of lawful development which has a real prospect of taking place in the alternative.
21. In this case, I find that there is a real possibility that the extant permission under Schedule 2, Part 3, Class Q of the GPDO would be implemented should this appeal fail. This is evidenced by the existence of the extant permission, and a structural report confirming that the existing barn is in reasonably good condition requiring only cosmetic repairs and is therefore capable of conversion. Consequently, although the prior approval process is separate to that of a full planning application, and while it should not automatically guarantee permission for residential development, the fallback position is an important material consideration in the determination of this appeal.
22. The implementation of the extant permission would see the creation of 5no dwellings on the site, whereas the appeal scheme would lead to the erection of 3no dwellings. The effect of the conflict of the proposal with the development plan in respect of the location of newly created residential dwellings would therefore be similar to that from the implementation of the extant permission. Indeed, the appeal proposal would result in two fewer residential dwellings on the site compared with that allowed under the extant scheme.
23. Although I do not have full details of the extant prior approval scheme, given the restrictions and limitations that exist under the prior approval process I give some weight to the appellants' claims that the appeal proposal would allow opportunity for additional benefits over the extant permission including landscaping and biodiversity enhancements, and the provision of electric car charging points and secure cycle parking.
24. Section 38 (6) of the Act requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, having regard to the above, I find that the conflict with the development plan in respect of the location of the

¹ Council Ref: 21/02759/PMBPA

² Michael Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314

proposal is outweighed by the reduction in the number of dwellings, and the potential landscaping, biodiversity, and sustainability benefits arising from the implementation of the proposal instead of the extant permission. Accordingly, I find that the barn is a suitable location for a dwelling.

Other Considerations

25. The appellant has put forward a fallback position in the form of an extant permission under Schedule 2, Part 3, Class Q of the GPDO. This permission allows for the change of use of the existing barn into 5no dwellings. As detailed in the main issue above, I accept that the fallback position is available and a material consideration in the assessment of the proposal. Furthermore, I accept that there is a real possibility that it would be implemented should planning permission for the appeal scheme be refused.
26. However, for significant weight to be afforded to a fallback position there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme. On this basis the appellant considers that as the appeal scheme would disaggregate the barn into three smaller dwellings, result in an overall reduction in built form, reduce the number of dwellings and their associated gardens and parking on the site, and provide opportunity for landscaping, biodiversity and sustainability enhancements, the appeal scheme would be less harmful than the fallback position.
27. Whilst I do not have the full details of the extant prior approval scheme before me, given the restrictions and limitations that exist under the prior approval process the development would have to largely utilise the existing structure therefore retaining an element of its rural design and appearance. The appeal scheme however would see the erection of three detached dwellings of suburban design causing harm to the character and appearance of the area.
28. Similarly, whilst there would be a modest reduction in footprint and volume, due to the increased height of the proposed dwellings and their eaves the appeal scheme would have a greater impact on openness than the existing building. Though the appeal scheme may give rise to biodiversity gains through the removal of hardstanding and planting of wild grass and soft landscaping, and sustainability enhancements through the provision of electric vehicle charging points and cycle parking, these would not outweigh the harm that would be caused to the openness of the Green Belt and the character and appearance of the area. Consequently, I afford the fallback position limited weight in support of the proposal.
29. The proposal would provide economic and social benefits through the construction of the development and the additional contributions of the occupiers to the local economy. The provision of three new dwellings would also contribute to the area's housing stock. Given the scale of the proposed development these contributions would be modest and in some cases time limited. As such, I ascribe these benefits limited weight.
30. My attention has been drawn to appeals³ relating to the proposed erection of dwellings in the countryside, and I have been provided with the Inspectors reports and decisions. However, from the limited information before me they

³ APP/M1710/W/20/3258256, APP/Z1510/W/17/3189624, APP/C3430/W/21/3283085

appear to relate to distinctly different proposals than the appeal scheme, with two of the referenced appeal sites not being located in the Green Belt. As such, I do not consider the examples directly comparable to the appeal scheme before me, which I have assessed on its own merits. I therefore attach little weight to these considerations.

Conclusion

31. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be supported except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
32. The other considerations do not clearly outweigh the substantial weight that I have given to the harm that would be caused to the Green Belt, by reason of inappropriateness, including openness, and the harm to the character and appearance of the area that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
33. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

David Jones

INSPECTOR