



Appeal Decision

Site visit made on 14 May 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th May 2024

Appeal Ref: APP/R3705/W/23/3331258

Tameview, Cliff Hall Lane, Cliff, Kingsbury B78 2DR

- 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 Mr Darren Gammage against the decision of North Warwickshire Borough Council.
 - The application Ref is PAP/2021/0593.
 - The development proposed is described as 'two detached dwellings.'
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline with all matters reserved for future consideration except access. I have determined the appeal on this basis treating the submitted site plan provided as illustrative.
3. In December 2023 the Government published a revised National Planning Policy Framework (the Framework). Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. I have referred to the updated paragraph numbers where relevant.

Main Issues

4. The main issues in this appeal are;
 - i) Whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
 - ii) Whether the appeal site is a suitable location for the proposed development having regard to local and national planning policy for the delivery of housing and accessibility to services and facilities; and
 - iii) Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate Development

5. The appeal site is located within the Green Belt to which the Government attaches great importance. Paragraph 154 of the Framework indicates other than in connection with a small number of exceptions, the construction of new

buildings should be regarded as inappropriate within the Green Belt. Of those exceptions, the appellant directs me to paragraph 154g).

Limited Infilling

6. Policy LP3 of the North Warwickshire Local Plan (LP) 2021 reflects the Framework's restriction to development in the Green Belt, providing details of how Green Belt policy is to be applied locally. With regard to infilling, Policy LP3 states that limited infilling in settlements washed over by the Green Belt will be allowed within the infill boundaries as defined on the policies map. The Council confirms that there is no defined infill boundary for Cliff.
7. Importantly, Policy LP3 does not define a settlement as being where there is built development around 3 or more sides. Rather it states that infill development may be acceptable where a site is *clearly part of the built form of a settlement* (my emphasis), suggested as location where there is substantial built development around 3 or more sides of a site.
8. I have not been directed to a definition of what constitutes a settlement or infilling within the Framework or the development plan. Caselaw suggests that it is for the decision-maker to reach a judgement about whether a site is within a settlement and that it is a matter of the facts on the ground, as well as taking account of any relevant policies¹. It is also a matter of judgement as to what constitutes infilling, taking into account the nature and size of the proposed development, the location of the site and its relationship to existing development adjoining and adjacent to it.
9. I observed that Cliff is no more than a collection of buildings including some houses in a generally rural setting. No evidence is before me that Cliff is identified as a settlement within the LP. From the evidence before me Cliff does not contain facilities including as a shop, village hall, church or school such that the future occupants would enhance the vitality of a rural community. There are no road signs marking the entry or exit to Cliff.
10. The appeal site comprises a parcel of land at the western end of Cliff Hall Lane. Although it may look on plan like it is surrounded by dwellings on 3 sides, on the ground the appeal site is perceived from the road as a backland site behind other built development. Due to its undeveloped nature, views of the rolling countryside beyond are afforded above the boundary fence. The appeal site therefore, marks the transition between the built form of Cliff and the open countryside beyond the River Tame which provides an undeveloped border to the west.
11. As viewed from Cliff Hall Lane, the appeal site does not appear as a gap within an otherwise built frontage, given that the dwelling of Tame View is at an angle and tucked out of sight behind the Coach House. The end of Cliff Hall Lane and the access to the appeal site would also be to the front of the northern-most plot such that would not amount to substantial built development. The site is not therefore within an established row of linear development, but a point of transition where development becomes more dispersed.
12. Even if I could accept that the proposed development would be sited between buildings as perceived from the public realm and acknowledging that the proposed site plan is indicative, considerable space would be retained between

¹ Court of Appeal judgement *Julian Wood v SSCLG and Gravesham Borough Council*, 2015.

the proposed and existing dwellings to the north and south. It seems to me that infilling requires a gap between buildings to be filled, such as when an otherwise built-up frontage is completed and that would not be the case here.

13. On the evidence presented including my observations, the appeal site is not clearly part of a settlement and the proposal would not constitute infilling sufficient to satisfy Policy LP3 of the LP or paragraph 154g) of the Framework.

Previously Developed Land

14. The parties do not dispute that the appeal site constitutes previously developed land (PDL) as defined within Annex 2 of the Framework. No evidence has been presented that would lead me to form a different view. However, the exception under paragraph 154g) of the Framework, only applies where the proposal would contribute to meeting an identified affordable housing need within the Council's area, which is not the case here, or there would be no loss of openness.
15. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension.
16. The appeal site predominantly comprises an area of hardstanding on which approximately 6 touring caravans are stationed. Transient in nature they do not amount to operational development. Their replacement with 2 dwellings of permanent construction, along with associated car parking areas and domestic gardens, would therefore increase the amount of built development on the appeal site, resulting in a significant erosion of 3-dimensional space.
17. Even if the reserved matters stage provided single storey dwellings, the proposed development would be visible above the boundary treatment to the end of Cliff Hall Drive and from the southern end of public footpath T71. Wide open views would also be available from the River Tame and associated wetlands and meadows to the west.
18. The scale of the proposed development would clearly have a greater impact on the openness of the Green Belt in both spatial and visual terms and the purpose of including land within it, than the existing situation. In this regard my findings are not contrary to the Lee Valley Judgement². The exception for PDL under paragraph 154g) would not be met.

Conclusion – Inappropriate Development

19. The proposal would fail to meet any of the exceptions set out by paragraph 154g) of the Framework and would therefore be inappropriate development, which is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It would also fail to comply with Policy LP3 of the LP as set out above.

Suitable Location

20. Policy LP2 of the LP defines the borough's settlement hierarchy, directing the majority of development towards its market towns and other defined settlements, where services and facilities are more readily available. To protect

² Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council and Anon (Rev 1) [2016] EWCA Civ 404.

its landscape character little development is supported within the countryside, other than a limited amount that would maintain the vitality of the rural settlements.

21. Located within the countryside the appeal site falls under category 5, 'all other locations' of LP Policy LP2. Special circumstances should exist to justify new isolated homes in the countryside, noting examples of those that meet rural workers' needs, the optimal use of a heritage asset, the re-use of redundant buildings, the subdivision of an existing residential dwelling, or development of exceptional quality or innovative design, or for rural exception sites in line with national policy. There is nothing in the evidence before me to suggest that the proposal would meet any of the exceptions of Policy LP2.
22. As discussed above, Cliff is no more than a collection of buildings in an evidently rural setting. There are little to no facilities which would support the everyday needs of the future occupiers of the proposed development. Cliff Hall Road is a relatively narrow rural lane with no pavement or street lighting. It connects to Tamworth Road (A51) which links the settlements of Dosthill and Kingsbury.
23. There is no defined footway along the A51 that leads all the way to Dosthill so as to encourage walking to local facilities. There is a footpath along the length of the route towards Kingsbury. However, it is narrow, largely unlit and immediately adjacent the carriageway edge of the road where vehicles travel up to 50mph. It would not therefore be a particularly safe or pleasant experience to walk to Kingsbury from the appeal site, particularly with children, after dark or for those with mobility issues. The facilities and services available in Kingsbury are some distance to the south, such that it would be more convenient for future occupiers to access them via a private car, rather than on foot.
24. The appeal site may provide opportunities for travel by bike, but it is likely to be limited to experienced cyclists rather than families, given the speed of vehicles using Tamworth Road. Bus stops are available on Tamworth Road but they are some distance from the end of Cliff Hall Lane, and there is no substantive evidence before me as to their frequency, such that they attract limited weight.
25. The general conditions of the appeal site as discussed above, are such that future occupiers would be more likely to rely on the private car as a safer and more convenient mode of transport to access supermarkets, schools as well as employment.
26. It is suggested that a recent approval for a residential annexe at the adjacent Coach House³ confers acceptance of the appeal site as meeting the sustainability objectives of the development plan and the Framework. That proposal was considered in 2014, prior to the adoption of the current LP and the publication of the present Framework iteration⁴. The planning policy position was therefore materially different. Moreover, an annexe is a different type of use that relies on a close functional relationship with a main dwelling. Thus, I do not find the circumstances comparable.

³ Planning application reference PAP/2018/0010.

⁴ As set out in the officer report provided within appendix 2 of the appellant's statement of case.

27. The proposed development would not be in a suitable location with regard to the delivery of housing and access to local services and facilities. The proposal would be in conflict with Policy LP2 of the LP as set out above, and the Framework with regard to rural housing.

Other Considerations

28. Paragraph 152 of the Framework states that very special circumstances for new development will not exist until the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations. The appellant has not advanced any other considerations which I can weigh against the harm identified.

Other Matters

29. The footprint of the proposed dwellings would extend over the former footings of Cliff Hall. Be that as it may, the evidence indicates that the Hall was demolished in 1968⁵ and there are no obvious remnants of the former structure visible on site, other than perhaps some paving. My findings are not affected.
30. The lack of listed buildings nearby and the siting of the appeal site outside of a conservation area are neutral matters, weighing neither for, nor against the proposal.

Green Belt Balance and Conclusion

31. The proposal would amount to inappropriate development in the Green Belt, resulting in a loss of openness. Referring to footnote 7 of paragraph 11, this is one such policy that, when applied, provides a clear reason for refusing the development proposed. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.
32. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are outweighed by other considerations.
33. Given the substantial weight to be given to Green Belt harm, combined with the other identified harm arising from the appeal site not being within a suitable location for housing development, and the lack of other considerations, the harm is not clearly outweighed. The very special circumstances necessary to justify the proposal do not exist. The appeal is dismissed.

M Clowes

INSPECTOR

⁵ As set out in the Council's officer report.