

In his Post-Case Management Conference Note, the Inspector identifies that for relevant appeal decisions and judgments *“each must be prefaced with a note explaining the relevance of the Decision to the issues arising in the current Inquiry case, together with the propositions relied on, with the relevant paragraphs flagged up”*.

Explanation Note:

CD13.21 - Planning Appeal Decision 3298447, Brown Westhead Park, dated 25/11/22

Worcestershire County Council’s Note

The appeal decision is considered solely with regard to the Inspectors comments on the spatial character of openness of the Green Belt to this extent of Brown Westhead Park and the adjacent footpath, located on the western boundaries of the appeal site. As such, general reference to the spatial impacts of openness is considered as per paragraphs 13 and 14 of the appeal decision.



Appeal Decision

Site visit made on 11 October 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

Appeal Ref: APP/R1845/W/22/3298447

Brown Westhead Park, Wolverley Road, Wolverley DY10 3PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Alec Evans against the decision of Wyre Forest District Council.
 - The application Ref 21/1200/OUT, dated 14 December 2021, was refused by notice dated 16 March 2022.
 - The development proposed is erection of three dwellings, garages and associated operational development.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Alec Evans against Wyre Forest District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the determination of the application by the Council, it has adopted a new Development Plan, the Wyre Forest District Local Plan 2016-2036, adopted April 2022 (WFLP). The WFLP has superseded the policies in the Wyre Forest Site Allocations and Policies Local Plan, and the Wyre Forest Core Strategy. Both parties were able to comment on the effects of this, which I have taken into account in my decision. I have therefore determined the appeal with the newly adopted policies in mind.

Main Issues

4. The site lies within the West Midlands Green Belt. 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 of the proposal on the openness of the Green Belt;
 - Whether the proposed development would accord with the Council's strategy with regard to the location of housing, to focus development at the most sustainable locations and to safeguard the intrinsic beauty of the countryside; and

- If the proposal is inappropriate development, 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. Paragraph 149 of the Framework states that the construction of new buildings is inappropriate in the Green Belt. Exceptions to this relevant to the proposal are found in sub-paragraphs 149 (e) and (g). These are that (e) it consists of limited infilling within a village or that (g) it consists of the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
6. Under Policy DM22 of the WFLP, development will not be permitted within the Green Belt except in very special circumstances, or where (amongst other things) it involves the limited infilling or redevelopment of an identified Previously Developed Site in the Green Belt, in accordance with the site-specific policies contained in Policy SA.PDL. Housing will not be permitted unless, relevant to this proposal, it involves limited infilling in villages (criteria iv). As such, Policy DM22 is broadly consistent with the Framework.
7. There is no dispute that the site lies outside of the WFLP settlement boundary for Wolverley. However, the Court of Appeal decision of *Wood*¹ confirms that the position of a site outside a settlement boundary may not in itself be determinative as to whether it is within a 'village' for the purposes of Green Belt policy.
8. There are a handful of dwellings close to the appeal site. Furthermore, an historic OS map shows that at one time there were substantial buildings between the site and the main part of Wolverley. However, the site of these buildings now consists primarily of open playing fields. These fields, together with other geographical features such as watercourses, divide the site from the main built-up part of Wolverley, which is located some distance away. Taking these factors together, I consider that the site is not part of a 'village' and that criteria (e) of the Framework and criteria (iv) of Policy DM22 is not met.
9. The definition of Previously Developed Land (PDL) in the Framework excludes land that was developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. In this case, the site once formed part of a larger parcel of land including a disused workshop, albeit that the workshop building itself has now been replaced by four dwellings. The appellant has referred me to an appeal at Wem, Shopshire² where the partially hidden concrete base remains of a former depot were found to consist of PDL.
10. However, at Wolverley, despite the existence of redundant concrete slabs, I saw little visual evidence of the former workshop building. The appeal site itself contains a temporary building and builder's rubble, but the site's green and

¹ Julian Wood v SSCLG and Gravesham Borough Council [2014] EWHC 683 (admin) [2015] EWCA Civ 195

² APP/L3245/W/15/3029727

undulating visual appearance means that the site has blended into the landscape.

11. As such, it does not consist of PDL and so can be distinguished from the Wern appeal, to which I therefore give little weight. As non-PDL, the proposal does not meet Framework criteria (g). I have no evidence that the site is specifically identified by WFLP Policy SA.PDL, and so this element of its Policy DM22 is also not met. The appellant refers to WFLP Policy SP7. I do not have a copy of this policy, but I understand it reiterates the importance of national policy in the Green Belt. As such, for the same reasoning, the proposal would not meet this policy.
12. I therefore conclude that the proposal would not comply with the exceptions set out in paragraphs 149 (e) and (g) of the Framework and it would conflict with WFLP Policy DM22. It would be inappropriate development in the Green Belt having regard to the Framework and Development Plan policies.

Openness

13. A fundamental aim of Green Belt policy is to keep land permanently open. The Planning Practice Guidance³ confirms that openness is capable of having both spatial and visual aspects. The proposal is in outline with all matters reserved, including scale and it may be possible for the dwellings to utilise the site's sloping nature.
14. Even so, spatially, the erection of three dwellings would intrinsically result in a large amount of additional built-form volume and mass on the site. Visually, there are existing dwellings either side of the site, but the site has the appearance of open countryside. This appearance, into which the proposal would encroach, is clearly visible from both Brown Westhead Park road and the public footpath to the rear of the site. Taken together, the spatial and visual effects of the proposal would cause a significant loss of its current open character. As such, its effect on the openness of the Green Belt would be harmful.

Location of housing

15. WFLP Policies SP1 and SP2 set out the Council's spatial strategy for development, with it being focused towards the most suitable larger settlements, with their better access to services and facilities. Amongst other things, Policy SP2 also seeks to safeguard and where possible enhance the open countryside, whilst Policy SP22 aims to protect the character of the landscape and the intrinsic natural beauty of the countryside.
16. As such, on land outside of settlement boundaries such as this site, new development is strictly controlled and new housing limited to certain types, including proposals covered by WFLP Policies SP10 for affordable housing and Policy SP6 and SP11 for rural housing needs.
17. I have already found that the site is located some distance away from the main part of Wolverley, meaning that it has limited access to services and facilities. The site's green and rural appearance forms part of the landscape of the countryside hereabouts. The development of housing, because of its built-form

³ Paragraph: 001 Reference ID: 64-001-20190722

together with its associated domestic paraphernalia would urbanise and detract from the rural appearance of the landscape.

18. Furthermore, as confirmed by the application form, the proposal is for market housing, and I have no evidence that it would include accommodation covered by any of the exceptions provided by WFLP Policies SP2 and SP6. Specifically, I have no reason to believe that the site has been identified for affordable housing or local needs as a rural exception site, by a group referred to by Policy SP11 such as the Parish Council.
19. For these reasons, the proposal does not comply with WFLP Policies SP1, SP2, SP6, SP10, SP11 or SP22 and I therefore conclude that it would not accord with the Council's strategy with regard to the location of housing, to focus development at the most sustainable locations and to safeguard the intrinsic beauty of the countryside. For similar reasons, it would also conflict with the Framework, including at Paragraph 174.

Other Considerations

20. I do not doubt that the previous use of the site, and its potential contamination, significantly restricts the possible uses for it. Nor do I doubt the considerable costs of remediation and that these could be met by the proposal. However, securing remediation and value for the site is essentially a private benefit to the appellant, whereas the planning system is concerned with the public interest. As such, I give these benefits only limited weight, and so they do not amount to very special circumstances.

Conclusion

21. The proposal would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
22. For the reasons set out above the harm to the Green Belt, and in respect of the Council's strategy with regard to the location of housing, would not be clearly outweighed by the other considerations. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated.
23. Consequently, for the reasons given, there would be conflict with the Development Plan, read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

O Marigold

INSPECTOR