



Appeal Decision

Site visit made on 30 July 2018

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2018

Appeal Ref: APP/C3430/W/18/3198392

Springhill Cottage, 58 Springhill Lane, Lower Penn WV4 4TN

- 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 Nigel Poter on behalf of Lawnswood Homes Limited against the decision of South Staffordshire Council.
 - The application Ref 18/00022/FUL, dated 8 January 2018, was refused by notice dated 26 February 2018.
 - The development proposed is a 4 bedroom detached dwelling and associated detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for a 4 bedroom detached dwelling and associated detached garage at Springhill Cottage, 58 Springhill Lane, Lower Penn WV4 4TN in accordance with the terms of the application, Ref 18/00022/FUL, dated 8 January 2018, subject to the conditions contained within the attached Schedule.

Preliminary Matter

2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published and this is a material consideration which should be taken into account from the date of its publication. I have therefore determined the appeal in light of the revised Framework.

Main Issue

3. The main issue is whether the proposal is inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies.

Reasons

4. The Framework states that inappropriate development in the Green Belt is by definition harmful and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. One exception to this is limited infilling in villages.
5. In addition to the Framework, Policy GB1 of the South Staffordshire Core Strategy (the CS) 2012 states that development acceptable within the terms of national planning policy set out in the Framework will normally be permitted

where the development falls within one of the listed criterion. Criterion *d*) refers to limited infilling. The footnote to Policy GB1 states that limited infilling is defined as the infilling of small gaps (1 or 2 buildings) within a built up frontage of development which would not exceed the height of existing buildings, not lead to major increase in the developed proportion of the site, or have a greater impact on the openness of the Green Belt and the purposes of including land within it. Unlike the Framework, Policy GB1 or the footnote to it does not differentiate between limited infilling in villages and limited infilling of previously developed land.

6. The South Staffordshire Green Belt and Open Countryside Supplementary Planning Document (SPD) 2014 goes on to further state that limited infilling will be considered to be acceptable where it would not harm the character or the openness of the Green Belt. For example, a strong ribbon of development with a gap suitable for an additional building would not necessarily be harmful to the openness of the Green Belt, as it would strengthen the ribbon.
7. The appeal site is a small field located on the edge of a settlement. To the side and front are residential properties. To the rear is a collection of buildings, beyond which are open fields. Dwellings along this stretch of Springhill Lane are generally large detached properties set within substantial plots. There is no particular prevailing architectural style. Springhill Cottage is positioned directly adjacent to the lane. Other properties are generally set back from the road and well screened by trees and hedges. Whilst not small, the appeal site is comparable in size to other properties, particularly those on the north side of the road, and would be naturally read as an infill plot. I consider that the site is within a strong ribbon of development.
8. The proposed dwelling would be sympathetic in terms of its size and design to other properties within the vicinity. It would be positioned slightly forward of No 60 Springhill Lane. There is no uniform building line on this side of the lane and given the separation distance between the two properties and the significant screening, the slightly forward position would not be readily discernible. The dwelling would be set back a significant distance from the road, retaining the openness to the front of the site and respecting the prevailing pattern of development.
9. The proposed development would be a single dwelling that would be well contained within the site and be located within a gap in an existing built up frontage of development within a village. It would be sympathetic to the scale and design of neighbouring properties and reflect the prevailing pattern of development. There is no indication that it would exceed the height of neighbouring properties. I find therefore that the proposal would be limited infilling in a village.
10. The proposal would introduce a dwelling onto a site which currently only contains a low level form of built development. Such development would inevitably have a greater impact on the openness of the Green Belt. However, the impact on openness is implicitly taken into account in the exceptions listed in paragraph 145 of the Framework unless there is a specific requirement to consider the actual effect on openness. Criterion *e*) of paragraph 145 does not set out such a specific requirement. Therefore, providing the proposal is considered to be limited infilling in a village, there is no requirement to assess the impact of the development on the openness of the Green Belt.

11. I have been referred to a previous appeal decision¹ on the site. The details of this scheme are not before me and therefore I cannot be certain that there is any direct comparison with the current proposal, other than it is the same site. Nevertheless, the excerpt cited by the Council indicates that the Inspector found that the scheme would be at odds with the spacious layout of the existing nearby properties and would go beyond the filling of a gap between the existing properties. The current proposal for one dwelling would reflect the spaciousness of neighbouring properties and reflect the existing pattern of development. Accordingly, I am satisfied that the current proposal addresses the previous Inspectors concerns.
12. I acknowledge the Council's argument that the proposal would be at odds with the definition of limited infilling as set out in the footnote to Policy GB1 of the CS. However, it seems to me that this part of the definition should only apply to the infilling of previously developed sites, whereby there is a requirement in the Framework to consider its impact on the openness of the Green Belt. To consider the proposal's impact on the openness of the Green Belt in order to establish whether it is limited infilling in a village would be contrary to the terms of the Framework, therefore contrary to the policy itself.
13. As the proposal would constitute limited infill in a village for the purposes of paragraph 145 of the Framework it would not be inappropriate development. As such, it would accord with Policy GB1 of the CS and the SPD. Consequently, there is no conflict with the purposes of the Green Belt set out in paragraph 134 of the Framework. There is no need to consider whether there are other considerations which would amount to very special circumstances.

Conditions

14. I have considered the conditions suggested by the Council having regard to the six tests set out in the Framework. I note that there are no reasons pertaining to any of these conditions.
15. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
16. In the interests of the character and appearance of the area, conditions are necessary regarding the materials to be used; the protection of trees; landscaping; and, boundary walls and fences.
17. Conditions are also necessary regarding the access; the access drive, parking and turning areas; and, the retention of parking provision within the garage in the interests of highway safety.
18. In the interests of biodiversity, conditions are necessary regarding a bat survey and the installation of bat boxes; vegetation clearance; and, works to be carried out in accordance with the badger survey.
19. In the interests of public health and flooding, a condition is necessary regarding foul and surface water drainage.
20. The Council seek to ensure that at least one oak tree is planted and that the planting is retained for at least 10 years and that no lopping, topping or cutting down of trees, shrubs or hedges shall take place without prior consent in the

¹ Appeal Ref APP/C3430/W/17/3173294

first 10 years. However, there is no evidence presented to me to justify these requirements. Consequently, I find these restrictions are unreasonably and unnecessarily onerous and therefore fail to meet the tests.

21. The Council also seek to remove various permitted development rights. However, there is no evidence that there are exceptional circumstances that would justify their removal.
22. It is essential that the requirements of conditions 5, 10, 11 and 15 are agreed prior to the development commencing to ensure an acceptable form of development in respect of biodiversity; the character and appearance of the area; public health; and, flooding.

Conclusion

23. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100A, 300B and 400.
- 3) No construction work shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not be occupied until the access drive, parking and turning areas have been provided in accordance with the approved plans.
- 5) The development hereby permitted shall not be occupied until the access to the site within the limits of the public highway has been completed.
- 6) The garage indicated on the approved plan shall be retained for the parking of motor vehicles and cycles. It shall at no time be converted to living accommodation.
- 7) No development shall take place until a bat survey has been carried out of all the trees on site. The survey shall be submitted to and approved in writing by the local planning authority and any mitigating measures carried out in accordance with the recommendations. Prior to the occupation of the dwelling, two woodcrete bat boxes must be provided on site, details of which must first be submitted to and approved in writing to the local planning authority.

- 8) Any tree, shrub, scrub or other vegetation clearance works carried out between the months of March to August inclusive, shall be carried out in accordance with a methodology which shall first be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 9) Works shall be carried out in accordance with the submitted Badger survey dated 6 February 2017.
- 10) Before the development commences the existing trees, shrubs and hedges on the site shall be protected by fencing constructed in accordance with BS 5837:2012 (trees in relation to design, demolition and construction - recommendations) in positions to be first agreed with the local planning authority. The approved protective fencing shall be retained throughout the development of the site.
- 11) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 13) Where the access road (inc footpath) into the site is to be widened and the public footpath is to be widened on the site frontage an Arboricultural Method Statement detailing a hand dig method of construction within the root protection areas of the 2 protected trees (on each side of the access) shall be submitted to and approved in writing by the local planning authority prior to the commencement of construction works. Works shall be carried out in accordance with the approved details.
- 14) No new boundary walls or fences shall be built on the property frontage without the details of excavation and construction being submitted to and approved in writing by the local planning authority.
- 15) No development shall commence until a scheme for the provision and implementation of foul drainage and surface water drainage works have been submitted to and approved in writing by local planning authority. The development shall not be occupied until the approved scheme has been completed.