

# Appeal Decision

Site visit made on 3 October 2023

**by Elaine Moulton BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> October 2023**

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**Appeal Ref: APP/C3430/W/23/3321036**

**15 Hilton Lane, Shareshill, Hilton, Staffordshire WV10 7HU**

- 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 Martyn Johnson against the decision of South Staffordshire District Council.
  - The application Ref 22/01187/FUL, dated 22 December 2022, was refused by notice dated 16 March 2023.
  - The development proposed is described as 'retention of existing dwelling and outbuilding (Outbuilding 3) at 15 Hilton Lane'.
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## Decision

1. The appeal is dismissed.

## Background and Preliminary Matter

2. Planning decision, reference 20/00035/FUL, granted planning permission for the construction of a new 4 bed family home and demolition of an existing house and outbuildings. The Council indicate that the decision was subject to a condition requiring the existing dwelling to be demolished within 1 month of occupation of the new dwelling. At the time of my site the new dwelling, 15 Hilton Lane (No 15), had been constructed and was being occupied.
3. The appeal seeks approval for the retention of the existing dwelling and an outbuilding. However, given that the buildings should otherwise be removed to satisfy the requirements of the identified planning decision, the proposal is tantamount to involving new buildings. I will therefore determine the appeal on that basis.

## Main Issues

4. The main issues are:
  - Whether the development is inappropriate in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - Whether the appeal site is a suitable location for the development is suitable for the development proposed, having regard to accessibility to job opportunities, facilities and services;
  - The effect of the development on the character and appearance of the area; and

- 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 development.

## **Reasons**

### *Inappropriate development*

5. The appeal site is located within the Green Belt. The Framework establishes that new buildings in the Green Belt are inappropriate other than for specified exceptions that are set out in paragraph 149. One such exception, 149(e), is limited infilling in villages.
6. Policy GB1 of the South Staffordshire Core Strategy (2012) (CS) broadly conforms to the general thrust of the Framework. It states that planning permission will normally be permitted within the Green Belt where the proposal is for certain purposes, including limited infilling.
7. The term 'limited infilling' is not defined in the Framework, it is therefore a matter of judgement for the decision maker in the context of any relevant development plan policy or guidance. In that regard, CS Policy GB1 clarifies it as the filling of small gaps (1 or 2 buildings) within a built-up frontage of development which would not exceed the height of the existing buildings, not lead to a major increase in the developed proportion of the site or have a greater impact on the openness of the Green Belt and the purpose of including land within it. The Green Belt and Open Countryside Supplementary Planning Document (2014) (SPD) provides further guidance on what constitutes acceptable limited infilling.
8. The appeal dwelling directly adjoins No 15 on one side. On the other side are three dwellings fronting onto Hilton Lane. To either side of this group of buildings are large undeveloped gaps.
9. Such a loose and sporadic form of development, interspersed by undeveloped spaces, leads me to conclude that the appeal site is not a small gap within a built-up frontage forming a strong ribbon of development. Furthermore, the retention of the dwelling in addition to the introduction of No 15 leads to a major increase in the developed proportion of the site. Consequently, the development doesn't meet the definition of limited infilling set out in the Development Plan and the supporting SPD. For that reason, it does not fall within the scope of the exception set out at paragraph 149(e) of the Framework.
10. In addition, whilst Hilton is listed as one of the 'other villages and hamlets' for the purposes of CS Core Policy 1 (CP1), on the ground, it does not form a settlement containing services or facilities. There is nothing before me that would lead me to conclude that Hilton is a village. Therefore, even if I were to consider that the appeal development comprises limited infilling, as it is not within a village, the appeal development would still not fall within the scope of the exception set out at paragraph 149(e) of the Framework.
11. A further exception is set out at paragraph 149 (g)(i) of the Framework, which allows for the limited infilling or the partial or complete redevelopment of previously developed 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 main parties agree that the site is previously developed land and based on the information before me I have reached the same finding. Therefore, my conclusions as to the effect on openness will determine whether the proposal is inappropriate development. As confirmed in the *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466 judgement, openness has both spatial and visual aspects.
13. The existing dwelling is a long-standing feature on the site. However, the addition of No 15 represents a substantial increase in the scale and bulk of buildings on the site when compared to its appearance prior to its construction. It also represents a substantial increase in the scale and bulk of buildings on the site when compared to that permitted under decision reference 20/00035/FUL, which required the removal of the appeal building. Furthermore, the appeal dwelling is highly visible from the highway.
14. The appeal development, therefore, harms the openness of the Green Belt both spatially and visually and, accordingly, it therefore does not meet the exception under paragraph 149(g)(i) of the Framework.
15. The appeal development would also conflict with the Framework as it would fail to assist in safeguarding the countryside from encroachment and would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.
16. For these reasons, the development is inappropriate in the Green Belt which is, by definition, harmful. It therefore conflicts with CS Policy GB1, the Green Belt and Open Countryside Supplementary Planning Document (SPD) as well as the Framework.

#### *Suitable location*

17. CS Policy CP1 sets out a Spatial Strategy to deliver the rural regeneration of South Staffordshire. The overall strategy of the CS, therefore, is to direct new development to the larger settlements, referred to as service villages, which have access to a wider range of facilities. Outside of service villages, CS Policy CP1 indicates that new development will be restricted to particular types to meet affordable housing needs, support tourism, provide for sport and recreation and support the local rural economy and rural diversification.
18. I have found that the appeal site lies outside of any identified service villages and, therefore, outside of the areas identified for rural housing as set out in CS Policy CP1. The route from the appeal site to the amenities and services within the nearest service villages, Featherstone and Shareshill, would require journeys that are, in part, along unlit rural roads without footways. This would be a deterrent to pedestrians and cyclists, in particular during times of darkness and inclement weather. Additionally, on my visit I saw that the nearest bus stop is some distance from the site, on the A460. For similar reasons it is unlikely that such bus stops will be used.
19. Consequently, the private motor vehicle would most likely be the predominant means of transport for residents of the retained dwelling to access employment, facilities and services. For this reason, I do not consider that the proposal represents accessible development in a rural area. Moreover, there is nothing before me that suggests that the appeal development is a type of identified in CS Policy CP1 as being acceptable outside of service villages.

20. The appellant has referred to appeal decision APP/C3430/W/18/3212095. Whilst I do not have the full details of that case, it is apparent from the decision letter that the Inspector did not address whether that proposal was in a suitable location for residential development. Furthermore, the Inspector concluded that the development before him was appropriate in the Green Belt. That case, therefore, differs from the appeal development before me and, accordingly, it is not possible to draw comparisons between the two cases or find that the identified appeal decision supports the proposal before me.
21. I therefore find that the appeal site is not suitable for the development proposed, having regard to accessibility to job opportunities, facilities and services. It is therefore contrary to CS Policy CP1.

#### *Character and appearance*

22. The buildings, in the vicinity of the appeal site, primarily comprise two storey dwellings of varied design and scale. Whilst some of the nearby dwellings are set within generous plots with significant gaps between, there are examples of dwellings sited very close to each other and with narrow frontages to the highway. There is no consistent building line to the nearby properties.
23. In such a context, the proximity of the appeal property to No 15, and the significant setback behind its front elevation and distance from the front boundary does not result in an incongruous form of development. There would be additional parking and domestic paraphernalia associated with the occupation of a second dwelling on the site. Nonetheless, this is not to the extent that, when combined with the relatively small plot size, that the site would appear unusually, or unacceptably cramped. Furthermore, given that the site was already in residential use the appeal development would not be adding domestic paraphernalia or car parking where none previously existed. Consequently, whilst the openness of the Green Belt would be harmed, it would not have an unacceptable effect on the local landscape character or on the appearance of the area.
24. I therefore find that the development does not harm the character and appearance of the area. It therefore accords with the design aims of CS Policies EQ4 and EQ11.

#### *Other Considerations*

25. The appeal development would contribute towards the Government's aims of boosting the supply of housing, as set out in the Framework. However, there is nothing before me to suggest that the Council does not have a five-year housing land supply and that current policy is not providing enough housing to meet the requirements for the area. The provision of one additional dwelling therefore attracts limited weight.
26. The appeal development, once occupied, would provide support to the local economy and local community facilities. These benefits attract moderate weight due to the very modest quantum of development under consideration.
27. Reference has been made to a possible fall-back position, namely the potential construction under permitted development (PD) rights of an outbuilding of the dimensions proposed. The consideration of a fall-back position, including what could be erected under PD rights, is a well-established principle. However, for a

fall-back position to weigh heavily in favour of a proposal there shall normally be real prospect of a closely comparable form of development occurring.

28. I acknowledge that there are PD rights to construct outbuildings within the curtilage of a dwellinghouse for purposes incidental to its enjoyment. There are also PD rights for the enlargement of a dwellinghouse by construction of additional storeys. Therefore, a new outbuilding could potentially be constructed of similar dimensions to the one which is proposed to be retained.
29. However, there are no PD rights for the construction of a building of similar dimensions to the appeal dwelling, and any buildings that could be constructed could not be occupied as a dwellinghouse. As such, if I was minded to dismiss this appeal, I am satisfied that there is not a reasonable likelihood a comparable development would be implemented. Thus, I attach limited weight to any potential fallback position.
30. I acknowledge that circumstances have changed since the granting of permission reference 20/00035/FUL and that it is no longer necessary to demolish the appeal dwelling due to subsidence issues. However, this does not weigh in favour of inappropriate development in the Green Belt.

### **Green belt balance**

31. Paragraph 147 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
32. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. I have also found harm to the openness of the Green Belt. The proposed development would also cause harm in terms of its unsuitable location. The lack of harm to the character and appearance of the area is a neutral factor.
33. The other considerations I have identified are of limited or moderate weight in favour of the proposal. Consequently, these considerations, along with all other matters identified in the evidence, do not clearly outweigh the identified harm to the Green Belt, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development.

### **Other Matter**

34. The appeal site lies within the zone of influence for the Cannock Chase Special Area of Conservation (SAC). However, there is no need for me to consider the implications of the proposal upon the SAC because the scheme is unacceptable for other reasons.

### **Conclusion**

35. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

36. I therefore conclude that the appeal should be dismissed.

*Elaine Moulton*

INSPECTOR