

Planning Committee: 14 December 2023

Agenda Item 6

Application No: [W 23 / 1094](#)

Town/Parish Council: Burton Green
Case Officer: Jack Lynch

Registration Date: 26/07/23

Expiry Date: 20/09/23

01926 456642 Jack.lynch@warwickdc.gov.uk

Burrow Hill House, Hob Lane, Burton Green, Kenilworth, CV8 1QB

Outline planning application (with all matters reserved apart from access) for the erection of 1no. dwelling. FOR Mr Watkinson

This application is being presented to Committee due to the number of support comments as well a response of support from the Parish Council.

RECOMMENDATION

Planning Committee are recommended to refuse planning permission.

DETAILS OF THE DEVELOPMENT

The applicant seeks outline planning permission for the proposed erection of a single dwelling with all matters reserved, except for access.

SITE AND LOCATION

The application site is in the Burton Green Parish, North of Kenilworth in Green Belt land.

The proposed site is in a small parcel of land Northeast of Burrow Hill House and South of the new housing development approved under planning application W17/2086, which included the erection of 90 new dwellings.

The site is accessible off Hob Lane, which provides access to the other dwellings that neighbour this site.

PLANNING HISTORY

The 2018 planning permission for the adjacent residential development has been referred to above.

In 2019 planning permission was granted for a new dwelling on land to the north of the current application site (Ref. W/18/2063).

Prior to this there had been various previous planning applications relating to the use of the wider site as a nursery, including for an agricultural workers dwelling in 1988.

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- H1 - Directing New Housing
- H4 - Securing a Mix of Housing
- H15 - Custom and Self-Build Housing Provision
- BE1 - Layout and Design
- BE3 - Amenity
- DS18 - Green Belt
- TR1 - Access and Choice
- TR3 - Parking
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- CC1 - Planning for Climate Change Adaptation
- FW3 - Water Conservation
- Burton Green Neighbourhood Plan (2018-2029)
- BG2 - Trees and Hedges (NE)
- BG3 - Wildlife and Biodiversity (NE)
- BG7 - Responding to Local Character (BE)
- BG12 - Electric Charging Points (BE)
- BG13 - Parking Provision (BE)
- BG14 - Use of Renewable Energy (BE)
- Guidance Documents
- Parking Standards (Supplementary Planning Document- June 2018)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)

SUMMARY OF REPRESENTATIONS

Burton Green Parish Council – Support. The Council acknowledges that the site is within the Green Belt and outside of the village envelope. However the Council also recognises that the proposal presents a unique set of circumstances including:

- there would be a net gain in biodiversity;
- the site is brownfield, being tarmacked and previously a delivery area;
- the site is surrounded on 3 sides by housing, with an access road and stable block on the 4th side;
- the development will not cause substantial harm to the Green Belt; and
- the occupation of the dwelling will be restricted to supporting people with autism or some other form of physical or mental impairment and as such will align with the needs identified in the Burton Green Housing Needs Survey (2018).

WDC Environmental Health – No objection, subject to air quality mitigation condition.

WCC Highways – No objection.

WCC Ecology – No objection, subject to conditions requiring submission of mitigation measures in line with the PEA and submission of a Biodiversity Management Plan.

Cllr K Aizlewood – Supporting comment. Comments note that there would be no harm to the openness of the Green Belt and that the proposal meets a specific housing need.

Cllr D Armstrong – Supporting comment. Comments highlight agreement with Cllr Aizlewood and further notes that the proposal would improve biodiversity on the site.

Cllr R Hales – Supporting comment. Highlights agreement with other councillors points.

ASSESSMENT

Principle of development

Policy H1 sets out a hierarchy of where new housing will be permitted. New dwellings in the open countryside, which is what this site is classed as, will only be supported where they meet a number of criteria set out within Part d or e of the Policy. This includes where the site is adjacent to the boundary of the urban area or a growth village and; meets an identified housing need and; is a small scale development that will not have a negative impact on the character of the settlement and the capacity of services within it and; is within a reasonable and safe walking distance of services or public transport to services and will not adversely affect environmental assets unless they can be mitigated for.

The site is adjacent to the boundary of a growth village. However, there is no identified housing need to which the proposed development can contribute. Burton Green has received a significant allocation of new housing recently, with 90 dwellings allocated at Burrow Hill under Policy DS11 of the Local Plan. This will have more than met any housing need that there may have been in Burton Green or the surrounding area. Furthermore, there is a 5-year supply of housing land within the District and the Local Plan allocates sites to meeting housing needs up to 2029.

Whilst the development is small scale and is within a reasonable safe walking distance of the limited services available in Burton Green, it would have a negative impact on the character of the settlement, eroding the Green Belt and adding built form to the defined edge of the village.

Having considered the above, the proposal fails to meet the requirements set out in Policy H1.

Whether the proposal constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances which would outweigh the harm by reason of inappropriateness and any other harm identified.

As the site lies within the West Midlands Green Belt, the proposal must be assessed against Policy DS18 of the Local Plan. The policy states development must be in accordance with the National Planning Policy Framework (NPPF) Green Belt provisions. Paragraph 145 states that any new buildings in the Green Belt are inappropriate unless one of the exceptions contained in that paragraph are met. The proposal does not meet any of these exceptions and therefore represents inappropriate development within the Green Belt.

Para. 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para. 144 goes on to state that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. "Very special circumstances" will not exist unless 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 application site currently contains an area of hardstanding, but no buildings. The erection of a dwelling would introduce notable built form to the application site. Consequently, there would be a reduction in the openness of the Green Belt.

The agent puts forward the case that:

- Consideration should be given to the site being located adjacent to the village and comprising limited infill and that a "common sense on the ground view should be taken as to the physical extent of a particular village". They also note that the proposal would "infill a small, underdeveloped gap within the confines of Burton Green" and the proposed new house complies with the term "limited infill".
- The agent also highlights that consideration should be given to the fact that the affordable housing is being proposed to meet the requirement of a local housing need.

The arguments that have been put forward in relation to the dwelling comprising affordable housing have been carefully considered. The first consideration is whether the proposals meet the definition of affordable housing. The definition is provided by the NPPF, which starts "housing for sale or rent...". The dwelling in this case is not for sale or rent. The applicant is the prospective occupier. Therefore it cannot meet the definition of affordable housing.

Even if the proposal did meet the definition, Local Plan Policy H3 would then need to be complied with. This sets out the circumstances where this Green Belt exception might apply.

Criterion (a) is that the proposal must meet a particular local housing need, as identified in detailed and up to date evidence from a parish or village housing needs assessment, and it can be demonstrated that the need cannot be met in any other way. The most recent Housing Needs Survey Report for Burton Green was carried out in July 2018. This did not identify any need for affordable housing in Burton Green. Furthermore, the subsequent development of 90 dwellings on the adjacent site, 40% of which are affordable housing, would have more than met any affordable housing need if there had been any. Even if that were not the

case, to comply with criterion (a) it would also have to be demonstrated that the need could not be met in any other way.

Criterion (c)(i) requires housing to be available in perpetuity to those with a need to be housed in the locality. As there is no registered social landlord involved with the proposal, it is not clear how future occupiers will be selected on the basis of local need. Paragraph 4.37 requires the involvement of a Registered Provider or a registered Charitable Trust.

Criterion (c)(ii) requires the type of accommodation, in terms of size, type and tenure, to reflect the needs identified in the housing needs assessment. As the application has been submitted in outline it is not possible to judge whether the size and type of dwelling would meet the need, if a need could be demonstrated.

The applicant's agent has argued that, whilst not necessarily complying with every specific requirement of Policy H3, the identified need of the applicant is sufficient to demonstrate a local need for affordable housing. This has been supported by the Parish Council and Ward Councillors.

In considering this argument, it is important to note that this is an exception to the normal strict presumption against permitting new dwellings in the Green Belt. Therefore it is important that any such proposals are in strict accordance with the policy that sets out the criteria where the exception will be made. The policy is very clear that the exception will only be made if the need is identified in detailed and up to date evidence from a parish or village housing needs assessment.

A housing needs assessment is undertaken on behalf of the community as a whole, is the subject of public consultation and follows a standard methodology. As a result, it can be afforded weight in determining planning applications.

The considerations that have been cited in support of the proposals are largely related to the personal circumstances of the applicant. When personal circumstances arise in planning appeals, Planning Inspectors normally refer to the fact that the effect of the development would remain long after the personal circumstances no longer apply. This principle applies in the current case. Therefore, the personal considerations do not outweigh the strict policies controlling development in the Green Belt.

With regard to the arguments that have been put forward regarding infilling, this is defined by Policy H11 of the Local Plan. One of the criteria states, "the development comprises the infilling of a small gap fronting the public highway between an otherwise largely uninterrupted built up frontage, which is visible as part of the street scene". The application site is not in a limited infill village and neither does the site constitute a small gap fronting the public highway within a largely uninterrupted built-up frontage. It is in an area of open countryside with dispersed dwellings and other rural buildings, outside the village boundary. The Local Plan sets out that infilling should be within the village boundaries defined in the Plan.

Arguments have also been put forward relating to the site comprising previously developed land. Even if it was, this would not provide any exception to Green Belt policy because the erection of a building on a site where there is currently none

would harm the openness of the Green Belt. In any case, as the site was formerly part of a nursery, an agricultural use, it is excluded from the definition of previously developed land in the NPPF.

For the above reasons it has been concluded that the proposals represent inappropriate development that would cause harm to the Green Belt by reason of inappropriateness and by reducing openness. There are no very special circumstances to outweigh that harm and therefore the proposals are contrary to Policies DS18 and H3.

Impact on the living conditions of neighbouring dwellings

The concerns of neighbours are noted. However, the site is considered to be large enough and far enough from neighbours to ensure the proposals would not cause harm in terms of loss of light, loss of outlook or loss of privacy. These impacts could be suitably controlled at reserved matters stage. The concerns that have been raised regarding loss of views are not material planning considerations.

Impact on the character and appearance of the area

This has been considered in the Principle of Development and Green Belt sections of this report. The erection of a dwelling on this site would reduce openness and consolidate what is currently a dispersed pattern of development adjacent to the edge of the village. This would have some harmful impacts on the countryside setting of the village which contributes to the conflict that has been identified with Policies H1 and DS18.

Ecology

Policy NE3 of the Warwick District Local Plan states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly. Neighbourhood Plan Policy BG3 includes similar provisions.

The County Ecologist requested submission of a PEA for this application. Following submission, the Ecologist notes that the site contains no protected species or sites and identifies a low risk of badgers, nesting birds, reptiles and amphibians crossing the site. The trees on site were assessed as having no suitability for use by roosting bats and no precautionary reasonable avoidance measures are recommended for bats. The report concludes that no further ecological survey work is required and any risk to animals crossing the site can be mitigated with Reasonable Avoidance Measures (RAM).

The report also addresses the need for Biodiversity Net Gain (BNG) to be achieved to comply with the NPPF making suitable recommendations for how this might be achieved. The Ecologist is satisfied that the report has been carried out to a high standard and have confidence in the findings and that no further ecological survey work is required for this application.

The proposal is therefore considered acceptable having regard to Policies NE3 and BG3.

Highways and Parking

Policy TR1 of the Warwick District Local Plan requires all developments provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Local Plan Policy TR3 and Neighbourhood Plan Policy BG13 require all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

WCC Highways are satisfied that the access is appropriate for the site in this instance and have no objection to the scheme. Thus the access is considered acceptable as it is in accordance with the Local Plan Policies TR1 and TR3 and Neighbourhood Plan Policy BG13.

CONCLUSION

The proposed development constitutes inappropriate development in the Green Belt which is harmful by definition and by reason of harm to openness. No exceptions have been met and no very special circumstances are considered to exist which outweigh the harm identified. The proposals would also conflict with Local Plan Policy H1.

The proposed development is therefore contrary to the aforementioned policies.

CONDITIONS

- 1 The site is situated within open countryside. Local Plan Policy H1 and para. 80 of the NPPF state that housing development will not be permitted in open countryside, subject to certain exceptions. The proposals do not comply with any of these exceptions. The proposals therefore constitute an unsustainable form of development that would be contrary to the aforementioned policies.
- 2 The NPPF and Policy DS18 of the Warwick District Local Plan state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

In the opinion of the Local Planning Authority, the proposed development constitutes inappropriate development in the Green Belt which is harmful by definition and by reason of harm to openness. No exceptions have been met and no very special circumstances are considered to exist which outweigh the harm identified.

The proposed development is therefore contrary to the aforementioned policies.