

Application No: [W 17 / 1362](#)

Town/Parish Council: Burton Green

Case Officer: Helena Obremski

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Registration Date: 25/07/17

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Hillcroft, Red Lane, Burton Green, Kenilworth, CV8 1PD

Resubmission of W/17/0674: Development of a new dwelling house and associated external works FOR Mr and Mrs Parry

This application is being presented to Committee as there have been more than 5 letters of support received in reference to the application and it is recommended for refusal.

RECOMMENDATION

Planning Committee are recommended to refused planning permission.

DETAILS OF THE DEVELOPMENT

The application seeks planning permission for the erection of a three storey detached dwelling. The proposed dwelling shall be accessed from the existing access serving Hillcroft and along a small driveway which runs directly in front of the existing dwelling. The proposed dwelling would have the appearance of a two storey dwelling, with garaging, gym and swimming pool to the ground floor, living accommodation to the first floor and five bedrooms, each with ensuite bathrooms to the second floor.

The architect has chosen a contemporary design, with flat roof, with a partially subterranean ground floor, which the agent claims it gives the impression of a two storey dwelling. The walls will be finished in white render and corton steel features, with aluminium doors and window frames. A modest detached greenhouse is also proposed. The agent claims that the design is of a highly contemporary nature, and with the use of modern materials and finishes, presents a bespoke building with an innovative appearance.

This is a resubmission of previously withdrawn application W/17/0674 for the same proposal. There were a number of concerns shown by Officers regarding the application which this application seeks to overcome.

THE SITE AND ITS LOCATION

The application site relates to a piece of land to the west of "Hillcroft", a detached two storey residential dwelling, being currently used as garden land. The piece of land is maintained by the owners of Hillcroft as part of their private residential amenity space, and houses a small chicken coup, along with some

ornamental plants and shrubs. There is an existing access from Red Lane serving Hillcroft and the application site is positioned next to a bend in the road. There are a number of prominent trees at the edge of the site and a hedge which acts as a boundary marker. The application site is located in an elevated position from the main road owing to the land levels of the site. The application site is located within the Green Belt.

PLANNING HISTORY

W/17/0647 - application withdrawn for the development of a new dwelling house and associated external works.

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- RAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029 Publication Draft April 2014)
- H11 - Limited Village Infill Housing Development in the Green Belt (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)
- Vehicle Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

SUMMARY OF REPRESENTATIONS

Burton Green Parish Council: Objection, the site is located on a dangerous bend and there is short visibility leading to highway safety concerns; the proposed driveway passes too closely to the front door to Hillcroft; the development does not represent limited infilling.

Tree Officer: No objection, subject to measures in Arboricultural Report being followed.

10 Letters of Support: Looks a good idea, see no issues, this select area needs a prestigious eco-house in keeping with the environment, we need more eco-houses, good design, a well considered plan.

ASSESSMENT

The main issues relevant to the consideration of this application are as follows:

- Principle of the Development
- The impact on the Character and Appearance of the Area
- The impact on the living conditions of nearby dwellings
- Car Parking and Highway Safety
- Drainage and Flood Risk
- Sustainability
- Ecological Impact and Trees
- Open Space
- Waste
- Health and Wellbeing

Principle of the Development

The relevant Local Plan Policy in relation to residential development is RAP1 - 'Directing New Housing'. The proposals would be contrary to Policy RAP1 as the site is not located within a Limited Growth Village *boundary* as identified within the policy. Emerging Local Plan policy H1 supports this and states that new housing will be permitted in Growth Villages and Limited Infill Villages as shown on the proposal maps.

The agent notes that in the emerging Local Plan which now has significant weight, Burton Green is identified as a limited growth village, and that there is

an allocation site for 90 new dwellings near to the application site and also HS2 will run near to the site. This is acknowledged, however, the application site still remains within the Green Belt within the emerging Local Plan and remains *outside* of the growth village boundary as identified on the proposal maps. The proposal therefore is considered to meet none of exceptions contained within RAP1.

Specifically, H1 goes on to state that housing development on garden land, in urban and rural areas, will not be permitted unless the development reinforces, or harmonises with, the established character of the street and/or locality and respects surrounding buildings in terms of scale, height, form and massing. This will be discussed in more detail below.

The proposal is not considered to comply with the requirements of adopted Local Plan policy RAP1 or emerging Local Plan policy H1.

The proposed development would provide a small contribution towards the Council's housing supply. However, as the Council is able to demonstrate a 5 year housing land supply, paragraph 14 of the NPPF would not be engaged.

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

The National Planning Policy Framework (NPPF) states that the essential characteristics of Green Belt are openness and permanence. It sets out that inappropriate development within the Green Belt is harmful by definition. Exceptions to inappropriate development in the Green Belt are listed and includes the limited infilling in villages and limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

There have been 10 letters of support regarding the proposed development which state the following reasons for support: looks a good idea, see no issues, this select area needs a prestigious eco-house in keeping with the environment, we need more eco-houses, good design, a well considered plan.

Limited Infilling

Policy H11 of the emerging Warwick District Local Plan 2011-2029 allows housing in Limited Infill Villages in the Green Belt. The policy defines limited infilling as acceptable as long as the development comprises of 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, and as long as the site does not form an important part of the integrity of the village, the loss of which would have a harmful impact upon the local character and distinctiveness of the area. The agent contends that the development represents limited infilling.

There has been an objection from the Parish Council who are of the view that the proposal would not represent limited infilling. Officers agree with this view. Firstly and most importantly, the site does *not* lie within a limited infill boundary as identified on the proposal map. Secondly, the site is not considered to represent a "small gap" between a largely uninterrupted built up frontage - development along the whole of Red Lane is not consistent, with some long strips of built up frontages and other open areas. Hillcroft constitutes the end property which forms part of a row of only three dwellings, with open land to either side of the row and to the rear of the site. This is not considered to represent a largely built up frontage and there is no "small gap", only open land to the north and west of the site.

Therefore, Officers consider that the proposed development would not represent limited infilling as it does not lie within a limited infill boundary in accordance with emerging Local Plan policy H11.

Brownfield Land

The agent goes on to contend in the Planning Statement that the proposed development would be located on brownfield land. The agent explains in the Planning Statement that the garden area currently serving Hillcroft and forming the application site, should be considered as brownfield land. The agent supports this claim by presenting a High Court decision in respect of Dartford Borough Council from 2016 - the Inspector determined that the NPPF was clear in stating that private residential gardens within built-up areas are excluded from the definition of previously developed land. However, as the site was located within a rural area, the Inspector concluded that it was not contained within this definition, so therefore the garden area was considered to represent previously developed land. Officers acknowledge this High Court decision, however, there were different circumstances surrounding this decision, in that this formed part of a set of very special circumstances leading to the granting of permission for a mobile home and touring caravan for a gypsy traveller site.

Furthermore, it should also be noted that the Council's emerging Local Plan was found sound and approved by Inspectors in August 2017. Emerging Local Plan policy H1 specifically states that housing development on garden land, in urban and rural areas, will not be permitted unless the development reinforces, or harmonises with, the established character of the street and respects surrounding buildings in terms of scale, height, form and massing. Officers conclude that the proposed development does not reinforce or harmonise with the character of the street scene, which is explored in more detail below.

Notwithstanding the above, even if Officers considered that the application site represented brownfield land, the NPPF is clear that the limiting infilling or partial or complete redevelopment of previously developed land is *only acceptable if it would not have a greater impact on the openness of the Green Belt*. The existing site benefits only from a small chicken coup and ornamental planting. When comparing this to the proposed three storey dwelling, it is very clear that the proposed dwelling would have a significant impact on the openness of the Green Belt.

Innovative Design

Paragraph 55 of the NPPF states that new isolated homes in rural areas should be avoided unless there are special circumstances such as exceptional quality or innovative nature of the design. The NPPF specifies that the design should be truly innovative or outstanding; reflect high standards in architecture; significantly enhance the immediate setting; and, be sensitive to the defining characteristics of the local area. The Planning Statement explains that the applicants consider the design of the proposed dwelling to be innovative. The Planning Statement claims that the proposed development is the "creation of a house of distinct and unique design". They claim that there is no local vernacular or design characteristic of the local area which should be reflected in any innovative design. Officers disagree with this view as there is variety within the street scene in terms of the style of dwellings - some are two storey dwellings and others are bungalows. There is also a mixture of materials, with some properties being rendered, and some being constructed from traditional brick. However, the street scene has a very "traditional" feel; the properties sit comfortably against each other in the street scene, with some gable features and some hipped roofs.

The proposed dwelling will be positioned high up from the street level next to a traditional two storey dwelling. Whilst the agent contends that there will be limited views of the dwelling from Red Lane, the proposed dwelling will still be viewed as a three storey flat roof dwelling, which is completely at odds with any of the other dwellings within the street scene. The large, imposing building, with "blocks" which fit together to provide a multi level building does not appear to take into consideration any of the defining characteristics of the area, nor is considered to enhance the area. Other than the design being "innovative and contemporary", the Planning Statement does little to clarify how the design is of exceptional quality or innovative design in accordance with the criteria set out by paragraph 55 of the NPPF. The bulky and contemporary design is considered to sit at odds with a traditional street scene made up of single and two storey dwellings, with either gable or pitched roofs. The flat roof is considered to be incongruous and out of keeping. The modern flat roof design is not considered to be innovative, nor is it considered to reflect high architectural standards.

The agent has provided a Landscape and Visual Impact Assessment (LVIA). It is claimed that the development is not considered to cause harm to the openness of the Green Belt. It is also claimed within the document that as the site is currently used as the garden to Hillcroft, that the site cannot be considered as open countryside, and does not contribute to the open rural character of the wider landscape setting, a point which Officers disagree with. The application site is currently very open - Hillcroft forms the last property in a row of dwellings, and at this point, the built form ends and the area opens up significantly, with no more built form for a considerable distance along this side of Red Lane. To the north and west, the area remains very much open, with a large fields to either side. The LVIA also states that view of the site from public rights of way are limited due to the topography of the land and vegetation. It is accepted that from Red Lane, because of the land levels and the fact that site is set on a higher ground level, the openness of the site cannot be as easily judged. However, it is

important to highlight that the assessment of the impact on the Green Belt should not be taken purely from public vantage points which the LVIA focuses on. Impact on the openness of the Green Belt should be taken as a whole.

The NPPF states that the essential characteristics of Green Belt are openness and permanence. Constructing a dwelling on the site would impact on the openness of the Green Belt. There have been no very special circumstances presented which are considered to outweigh the harm caused to the Green Belt and therefore the development is not acceptable in principle, and is considered to be contrary to the NPPF and emerging Local Plan policy H11.

The impact on the Character and Appearance of the Area

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Warwick District Council's Local Plan 1996 - 2011 policy DP1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using the appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area. Finally, the Residential Design Guide sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing importance features; respecting the surrounding buildings and using the right materials.

As previously mentioned above, the proposed design of the dwelling is not considered to respect the character of the area. The proposed development would be a large and incongruous feature, set amongst traditional dwellings, providing an alien feature within the street scene. The flat roof and bulky nature of the design is inappropriate and harmful to the street scene. Render is visible within the wider area, however, by rendering the whole structure, this makes the dwelling more imposing and the cantilevered steel elements make certain parts of the development appear even more incongruous within the street scene. The dwelling does attempt to appear as a two storey dwelling from the front elevation, however, the extended first floor "block" at the front adds unnecessary height, giving the impression of a three storey dwelling, which is incongruous.

The Planning Statement claims that the design is distinct and unique. This reinforces the fact that little consideration has been given to the existing traditional street scene. Officers recognise that a contemporary design may have been acceptable in this location owing to the mix of materials in the street scene and some variation in house types. However, little consideration appears to have been paid to any of the existing properties within the street scene.

The proposed design is considered to be harmful to the street scene by virtue of its incongruous and alien nature within the street scene. The use of inappropriate materials such as steel and its large imposing nature are considered to represent poor quality design which does not enhance the street scene. The development is therefore considered to be contrary to the NPPF, adopted Local Plan policy DP1 and the Residential Design Guide.

The impact on the living conditions of nearby dwellings

Warwick District Local Plan policy DP2 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion. The Residential Design Guide provides a framework for policy DP2, which stipulates the minimum requirements for distance separation between properties and that extensions should not breach a 45 degree line taken from a window of nearest front or rear facing habitable room of a neighbouring property.

Hillcroft is the closest residential property to the application site. There would be no conflict with the Council's adopted 45 degree guidance and there are no distance separation issues associated with the proposed dwelling. However, to access the proposed dwelling, the occupants would be required to drive directly in front of Hillcroft and in front of windows which serve habitable rooms, which is a concern also raised by the Parish Council. This access arrangement would result in undue noise and disturbance to the occupiers of Hillcroft which emanate from the unfettered movements of vehicles using the access. It is considered that the proposal would be unneighbourly as it would disrupt the enjoyment of the quiet private amenity space associated with Hillcroft where it is not unreasonable to expect such enjoyment.

Silver Birches is positioned directly opposite to the application site. There is a front facing first floor balcony proposed to the new dwelling. It is noted that the application site is also set on a higher ground level than this nearby neighbour, which could lead to the perception of overlooking. However, Silver Birches is over 44 metres away from the application property at the closest point and the proposed dwelling would be set back well from the front of the site, meaning that there would be limited opportunities for overlooking. Also, there would be established vegetation screening any views on both the application site and neighbour's site. Therefore, it is unlikely that there would be any increased overlooking or loss of privacy which would warrant reason for refusal of the application. Furthermore, it is also noted that Silver Birches has supported the application.

As the proposed dwelling would be accessed from a driveway which would pass directly in front of windows serving habitable rooms to Hillcroft, this is considered to be unneighbourly as it would disrupt the enjoyment of the quiet private amenity space associated with Hillcroft where it is not unreasonable to expect such enjoyment. Whilst the current owners of Hillcroft (who have made this

application) may be satisfied with this arrangement, the Council has a duty to protect the living conditions for any future occupiers of the property who may not find this reasonable. For this reason, the proposed development is considered to conflict with the NPPF and adopted Local Plan policy DP2.

Car Parking and Highway Safety

Officers have not yet received formal comments from WCC Highways. Comments will be updated prior to the Planning Committee meeting to inform Councillors of Highway Officer comments. It is noted that in relation to the previous submission, Highways Officers had concerns regarding the visibility splays for the proposed access and size of the access. The width of the access has been increased as part of this application.

The parking requirement for a five bedroomed property would be two spaces. This can be accommodated within the site boundary to an area of hardstanding next to the property or within the proposed garage. Furthermore, there would be ample space for cycle storage within the proposed garage to meet the Council's requirements.

Drainage and Flood Risk

No information has been provided in reference to sustainable drainage within the site boundaries, however, this matter could be secured by condition.

Sustainability

Due to the scale of the proposed development it is considered that a requirement to provide 10% of the predicted energy requirement of the development through renewables or a 10% reduction in CO² production through a fabric first approach would be appropriate. No information has been provided in reference to this matter, however, these details could be secured by condition.

Ecological Impact and Trees

Under the previous submission, WCC Ecology requested that a Preliminary Ecological Appraisal was carried out. This has been completed and submitted as part of the application. WCC Ecology have assessed the information provided and note that none of the trees to be affected contained evidence of bats. They agree with the recommendations contained within the report and advise that a condition should be added to any approval granted to ensure that they are followed.

There are a number of trees which are within the site boundary which have amenity value within the street scene. Under the previous application, the Council's Tree Officer requested a detailed arboricultural report, which has now been provided. The Tree Officer has been consulted and has confirmed that subject to the proposed development being carried out in accordance with the recommendations in the report in a timely fashion, they have no objection to the proposal. These details could be secured by condition.

Open Space

The Council's Open Space department have been consulted, however, Officers have not received a response from them yet. Councillors will be updated regarding this matter before the committee meeting.

Waste

Adequate waste storage can be accommodated within the site boundaries.

Health and Wellbeing

There are no health and wellbeing benefits identified.

CONCLUSION

Paragraph 89 of the NPPF states that Local Planning Authorities should regard the construction of new buildings as inappropriate development in the Green Belt. The application site is washed over by Green Belt and the proposed development of one dwelling does not meet any of the exceptions listed under paragraph 89 of the NPPF. The development is considered to be incongruous and harmful to the street scene by providing an alien form of development at odds with the traditional dwellings found within the established street scene which is contrary to the NPPF and adopted Local Plan policy DP1. The development would also be harmful to the living conditions of the occupiers of Hillcroft which is contrary to the NPPF and adopted Local Plan policy DP2. Therefore, it is recommended that the proposed development should be refused.

REFUSAL REASONS

- 1 Paragraph 89 of the NPPF states that Local Planning Authorities should regard the construction of new buildings as inappropriate development in the Green Belt. The application site is washed over by Green Belt and the proposed development of one dwelling does not meet any of the exceptions listed under paragraph 89 of the NPPF. No very special circumstances have been presented which outweigh the harm by reason of inappropriateness and harm to openness.
- 2 Policy DP1 of the Warwick District Local Plan 1996-2011 states that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design. Policy DP1 requires all development to respect surrounding buildings in terms of scale, height, form and massing, and use appropriate materials to ensure that it does not detract from the character of the local area.

The proposed dwelling is not considered to respect the existing dwellings within the street scene in terms of form and massing. The proposed design is considered to be harmful to the street scene by virtue of its incongruous and alien features such as flat roof and use of

inappropriate materials such as steel. The large imposing nature of the proposed dwelling is considered to represent poor quality design which does not enhance the street scene.

The development is thereby considered to be contrary to the aforementioned policy.

- 3 Policy DP2 of the Warwick District Local Plan 1996-2011 states (inter alia) that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents.

The proposed access arrangement would result in undue noise and disturbance to the occupiers of Hillcroft which emanate from the unfettered movements of vehicles using the access. Due to the close proximity of the access running alongside windows serving habitable rooms to Hillcroft, it is considered that the proposal would be unneighbourly as it would disrupt the enjoyment of the quiet private amenity space associated with Hillcroft where it is not unreasonable to expect such enjoyment.

The development is thereby considered to be contrary to the aforementioned policy.
