

**Planning Committee:** 27 March 2018

**Item Number: 14**

**Application No:** [W 18 / 0130](#)

**Town/Parish Council:** Burton Green

**Case Officer:** Helena Obremski

01926 456531 Helena.Obremski@warwickdc.gov.uk

**Registration Date:** 30/01/18

**Expiry Date:** 27/03/18

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

Proposed erection of a new dwelling house, greenhouse and associated external works. FOR 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 refuse planning permission for the reasons given at the end of this report.

**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 indicates 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 advises 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.

There have been two similar previous applications for the erection of a new dwelling within the residential garden of Hillcroft. One was withdrawn (W/17/0647), and the other was refused by Planning Committee in accordance with the Officer recommendation (W/17/1362) because:-

- i. the development was not acceptable in principle in terms of the impact on the openness of the Green Belt;
- ii. the design of the dwelling was considered to be harmful to the street scene;

- iii. the development was considered to be harmful to the living conditions of the occupiers of Hillcroft;
- iv. there was no contribution towards the improvement of local open spaces; and
- v. there were highway safety concerns.

Neither the design or the position of the proposed dwelling have been amended since the previous scheme. The Planning Statement submitted states that since the previous refusal, a full design review of the local area has been undertaken, work has been carried out to address the highway safety concerns, information regarding the principle of the development has been provided, and a unilateral undertaking will be prepared to provide for the open space contribution.

### **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, but is not located within the village envelope.

### **PLANNING HISTORY**

W/17/0647 - application withdrawn for the development of a new dwelling house and associated external works in order to overcome concerns raised by Officers.

W/17/1362 - application refused for the development of a new dwelling house and associated external works for the reasons summarised above.

### **RELEVANT POLICIES**

- National Planning Policy Framework

#### The Current Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- H11 - Limited Village Infill Housing Development in the Green Belt (Warwick District Local Plan 2011-2029)

- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- DS18 - Green Belt (Warwick District Local Plan 2011-2029)

#### Guidance Documents

- 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: concerns regarding highway safety; the access is too narrow and passes too closely to the front door of Hillcroft; the development does not represent limiting infilling; the development is out of keeping with the local vernacular.

**WCC Ecology:** Comments remain the same as for W/17/1362.

**WCC Highways:** No objection, subject to conditions.

**Open Space:** No objection, subject to the provision of £4,412 towards the improvement of local open spaces.

**23 Letters of Support:** The development represents high quality innovative design which would enhance the area; the development would be for local needs; this would provide a sustainable dwelling which gives due regard to environmental considerations; the development would provide additional housing; the development would not have a detrimental impact on the current occupiers of Hillcroft.

### **ASSESSMENT**

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

- Principle of the Development
- 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 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

Local Plan policy H1 states that new housing will be permitted in Growth and Limited Infill Villages as shown on the proposal maps. Burton Green is identified as a Growth Village, however, the application sites outside of the village envelope boundary, and is located within the Green Belt.

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.

As the proposed development meets none of the exceptions to the provision of rural housing identified by Local Plan policy H1, the proposal is not considered to be acceptable in principle.

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 16 letters from members of the public submitted to the Council regarding the proposed development which state the following reasons for support: the development represents high quality innovative design which would enhance the area; the development would be for local needs; would provide a sustainable dwelling which gives due regard to environmental considerations; the development would provide additional housing; the development would not have a detrimental impact on the current occupiers of Hillcroft.

### *Limited Infilling*

Policy H11 of the Local Plan permits limited infill development within Limited Infill and Growth Villages in the Green Belt. The policy defines limited infilling as acceptable as long as development comprising 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, but 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 or growth village boundary as identified on the proposals 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.

In the updated Planning Statement, the agent makes reference to a High Court judgement (the "Braintree" decision) and appeal decision, which clarifies that development within an established residential curtilage is not considered to be isolated, and as such represents infill development. However, in reference to this decision, Braintree District Council did not have a five year housing land supply, thus triggering the need to assess the development against paragraph 14 of the NPPF, which is unlike this application and therefore a direct comparison cannot be made.

The Planning Statement also makes reference to an appeal decision in relation to Pelton Fell, Durham for the erection of a new dwelling (APP/X1355/W/17/3180304) which was outside of the settlement boundary. Again, in relation to this appeal, Durham County Council could not identify a five year housing land supply, thus triggering the need to assess the application against paragraph 14 of the NPPF. There is no such requirement for this application.

The Council's Local Plan is the starting point in determining the application, and the proposed development does not accord with the definition of limited infilling. The Council's Local Plan was recently adopted in September 2017, where the Planning Inspectorate found the policies, including H11, which clarifies the Council's definition of "limited infill development", to be in accordance with the NPPF. Therefore, as the proposed development does not accord with Local Plan policy H11, there is an objection on that ground to the proposal.

The agent references the fact that Burton Green is identified as a Growth Village, and that there is an allocation site for 90 new dwellings near to the application site and also that HS2 will run near to the site, as material considerations as part of the application. However, whilst Officers acknowledge these matters, they do not comprise key material considerations which are capable of out weighing this objection to the proposal.

Therefore, Officers consider that the proposed development would not represent limited infilling as it does not lie within a limited infill or growth village boundary, and does not meet the requirements of Local Plan policy H11.

### *Brownfield Land*

Under the previous application, the agent contended that the development would also represent the development of brownfield land. Reference to this has been omitted from the updated Planning Statement, however, for completeness, Officers will explain why the development would not represent the redevelopment of brownfield land.

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.

Garden land is not considered to constitute brownfield land. Notwithstanding this and the above information, 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 increased 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 their 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 previous application was refused partly because the proposed design was considered to be incongruous and harmful to the character of the area, and did not represent innovative design. Under this application, the Planning Statement explained that the applicants consider the design of the proposed dwelling to be innovative. The design of the proposed dwelling has not been amended and therefore Officers do not consider the design of the dwelling to be any more innovative than was previously the case. The Planning Statement indicates that the proposed development is the "creation of a house of distinct and unique design". It sets out 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 indicated that the development is not considered to cause harm to the openness of the Green Belt. It is also suggested 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 field 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 and is therefore inappropriate development within the Green Belt to which there is an objection in principle. 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 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, Local Plan policy BE1 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 agent has carried out an assessment of the architecture in the surrounding area, and provided a revised Design and Access Statement which states that there is no particular design vernacular in the area.

Officers acknowledge that there is no prevailing architectural character within the wider area, and that there is some variety in terms of design and materials within the street scene. Notwithstanding this, Burton Green benefits from a verdant character, with traditional, simple house types. It is considered that 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 states that the design is distinct and unique. This reinforces the fact that limited 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. The use of inappropriate materials such as steel and its large imposing nature are considered to represent a design which does



not enhance the street scene. The development is therefore considered to be contrary to the NPPF, Local Plan policy BE1 and the Residential Design Guide.

#### The impact on the living conditions of nearby dwellings

Warwick District Local Plan policy BE3 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 BE3, 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 the 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 BE3.

### Car Parking and Highway Safety

Under the previous application, WCC Highways objected to the proposal because evidence had not been submitted to demonstrate that the required visibility splays could be achieved. As such, it was considered that the proposal could result in potential highway and pedestrian safety issues, and was refused partly on this basis.

Following on from the previous application, a speed survey was undertaken and the drawings provided show that the required level of visibility splays in both directions at the site access can be achieved. Furthermore, the development would also allow the widening of the existing vehicle access to allow two vehicles to pass each other. Following on from the submission of these details, WCC Highways have no objection to the proposed development, subject to conditions. Achieving the visibility splays would require the removal of some of the existing hedgerow, however, this would be minimal and is not considered to be harmful to the street scene.

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.

The Parish Council have raised concerns regarding the proposed access, however, as WCC Highways have no objection to the development, it is considered that the proposal is unlikely to cause harm to highway or pedestrian safety. The development is therefore considered to be in accordance with Local Plan policies TR1 and TR3.

### 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.

### Ecological Impact and Trees

WCC Ecology have assessed the information provided and state that their comments remain the same as for application W/17/1362. They noted that none of the trees to be affected contained evidence of bats, and agree with the recommendations contained within the report. WCC Ecology 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. The response from the Tree Officer has not yet been received by Officers, and members will be updated prior to the meeting with these comments.

## Open Space

The Open Space team have commented on the application and request a contribution of £4,212 towards the improvement of local open spaces. This contribution would be put towards the development objectives of Abbey Fields, specifically relating to signage and interpretation improvements. Abbey Fields scored only "Average" in a number of aspects in the latest Parks Audit and at the time of responding, there were no Section 106 Agreements assigned to the various projects within this open space.

The applicant is preparing a Unilateral Undertaking to secure this contribution if the application is approved. However, until this document has been received and checked by the Council's Legal Services department, the development is not considered to be in accordance with Local Plan policy HS4 and the adopted relevant guidance.

## 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 Local Plan policy BE1. The development would also be harmful to the living conditions of the occupiers of Hillcroft which is contrary to the NPPF and Local Plan policy BE3. Therefore, it is recommended that the proposed development should be refused.

## **REFUSAL REASONS**

- 1 The proposed development comprises inappropriate development within the Green Belt to which there is an objection in principle and in respect of which no very special circumstances sufficient to outweigh that harm have been demonstrated. The development is therefore considered to be contrary to the NPPF and Warwick District Local Plan policy DS18.
- 2 Policy BE1 of the Warwick District Local Plan 2011 - 2029 states that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design. Policy BE1 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 BE3 of the Warwick District Local Plan 2011 - 2029 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.

- 4 Policy HS4 of the Warwick District Local Plan 2011 - 2029 states that contributions from residential developments will be sought to provide, improve and maintain appropriate open space, sport or recreational facilities to meet local needs. The Council have also adopted a Supplementary Planning Document entitled Open Space together with associated guidance on developer contributions for commuted payments for off-site provision and enhancement of public open space where it is not provided on site.

The Open Space team have requested a contribution of £4,212 towards identified improvements to local open spaces. No unilateral undertaking has been put forward to secure such a contribution and therefore, in the opinion of the Local Planning Authority, the proposals do not make adequate provision for open space.

The proposals would therefore be contrary to the aforementioned policies.