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## Appeal Decision

Site visit made on 20 August 2019

**by Kate Mansell BA (Hons) MPhil MRTPI**

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

**Decision date: 8 November 2019**

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**Appeal Ref: APP/P3040/W/19/3229372**

**Land North West of 130 Melton Road, Stanton On The Wolds NG12 5BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr David and Robert Wilson against the decision of Rushcliffe Borough Council.
  - The application Ref 19/00166/OUT, dated 20 January 2019, was refused by notice dated 1 March 2019.
  - The development proposed is erection of two detached dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with all matters reserved for consideration at a later stage and I have dealt with the appeal on this basis. An indicative site plan has been submitted with the proposal and I have had regard to it in so far as it is relevant to my consideration of the principle of the scheme before me.
3. The Rushcliffe Local Plan Part 2 (RLPP2) was adopted on 8 October 2019. As a result, Policy EN14 of the Rushcliffe Borough Non-Statutory Replacement Local Plan (Adopted December 2006) (RBNSRLP), which is cited in the Council's decision notice has been superseded. I am required to determine this appeal on the basis of the development plan that is in force at the time of my decision. The Council advise that they now rely on Policy 21 (Green Belt). The appellants have had the opportunity to comment upon its relevance. The appeal has therefore been determined in relation to the policies within the RLPP2.

### Main Issue

4. The main issue is the effect of the proposal on the Green Belt as follows:
  - Whether it is inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
  - Its effect on the openness of the Green Belt;
  - Its effect on the character and appearance of the area; and
  - If the development is inappropriate, whether the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other

considerations, so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

5. Melton Road is a busy route (A606) between Nottingham and Melton Mowbray. Within the vicinity of the appeal site, the south-western side of the road is characterised principally by a ribbon form of development. It comprises mainly detached residential properties set within generous linear plots with modest front gardens/driveways and longer gardens to the rear. Stanton on the Wolds lies to the west, whilst the larger settlement of Keyworth is beyond that.
6. The appeal site is in the Green Belt, situated between Nos 126 and 130 Melton Road. It was formerly part of a small holding/garden associated with No 130 and on my site visit, I observed various fruit trees and some existing sheds/storage buildings. The appellants refer to a subsequent storage use, although I have no evidence of any planning permission relating to this. It does have a long planning history, which includes a refusal for 10 dwellings on a larger plot in 2018 and approval for a dwelling to the front in September 2018<sup>1</sup>.
7. The appeal proposal would introduce two dwellings onto the site. The indicative site plan shows one house positioned to broadly follow the building line established by 130 Melton Road. This would be in the same location as the recently approved dwelling cited above. The second house would be behind it. The plan illustrates that vehicular access for both properties would be taken from Melton Road. An existing hawthorn hedge to the southern boundary would be retained and the appellants indicate that new hedging and landscaping would be provided. Whilst it is suggested that they could be self-build/custom build, the application form denotes them as market housing, and I have considered the appeal on this basis.

### *Whether inappropriate development*

8. The Framework confirms that the Government attaches great importance to Green Belts. In this context, Paragraph 145 of the Framework states that other than for limited exceptions, the construction of new buildings in the Green Belt is inappropriate. The exceptions include, at paragraph 145(e), the limited infilling in villages and at paragraph 145(g), the limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development. I will consider each in turn.
9. This approach is also reflected in the recently adopted Policy 21 of the RLPP2, which advises that the boundaries of the Green Belt are as defined on the Policies Map and applications will be determined in accordance with the Framework. Policy 4 of the Rushcliffe Local Plan Part 1: Core Strategy (December 2014) also confirms that part of the settlement of Stanton on the Wolds, nearest to the appeal site, remains washed over by the Green Belt.

#### *(a) Limited infilling in villages*

10. Neither the Framework nor local planning policy define a village nor what would constitute limited infilling within them. In respect of the former, my attention

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<sup>1</sup> Council Refs: 17/02496/OUT and 18/01741/OUT

has been drawn to a High Court ruling<sup>2</sup> which determined that the boundary of a village defined in a local plan may not be determinative, and its physical extent depends on the situation 'on the ground'. The Council accept that, whilst outside the village boundary, the appeal site would be within a village, on the basis that it lies within a section of ribbon development along Melton Road that contributes to three sections of residential development that make up the settlement of Stanton on the Wolds. From my observations, I have no reason to disagree.

11. Turning to whether or not the proposal would constitute limited infilling, the Oxford English Dictionary definition of 'infill' cited by the appellants is that of 'buildings constructed to occupy the space between existing structures'. Whether or not a proposal represents limited infilling is ultimately a matter of planning judgement<sup>3</sup>, having regard to factors such as the nature and size of the development and its relationship to existing built form, although I accept that it could mean more than 1 dwelling, depending on the site characteristics.
12. In this case, the proposed dwelling to the front would sit between two existing houses and continue the established pattern of development along the road. However, the second dwelling to the rear, being substantially set back, would be sited beyond the line of these existing houses. It would be surrounded by gardens/open land rather than sitting between existing structures and consequently, it would extend beyond the existing built form along this part of Melton Road. For this reason, I consider that it would not represent limited infilling. Therefore, it would not meet the exception criteria set out at paragraph 145(e) of the Framework.
13. The appellants have cited eight appeal decisions that consider infilling. These relate to different local authorities and in the main, there are no details before me so I cannot be certain that the circumstances are similar to the appeal scheme. Where details are provided, the appeal sites were either surrounded by development on three sides or not within the Green Belt<sup>4</sup>. My attention has also been drawn to a list of decisions made by the Council. Again, I do not have full details of these cases but from the limited information before me on three of these sites<sup>5</sup>, No 178 Melton Road related to the replacement of an existing building, whilst the Griffin Inn car park was already adjoined by development. The Ruddington site was of a larger scale to the appeal proposal and I have no details of the circumstances of this decision. For these reasons, I do not find them directly comparable and, in any event, I must consider the scheme on its individual merits on the evidence before me.

*(b) Previously developed land (PDL)*

14. For the purposes of the Framework, I recognise that residential gardens outside of built up areas are included in the definition of PDL. Whilst there may be a residential consent to the front of the site, this has not been implemented and it does not influence its present 'lawful use'. Furthermore, from the evidence before me, including the appellants' reference to poultry as well as the fruit trees, the site's last use was, at least in part, as a small holding, akin to agriculture. This is specifically excluded from the definition of PDL in the

<sup>2</sup> Julian Wood v SSCLG [2014]

<sup>3</sup> R (Tate) v Northumberland CC (2018) [EWCA] Civ1519

<sup>4</sup> APP/F1040/W/18/3207248 and APP/W3005/A/12/2172386

<sup>5</sup> Council Refs: 16/02455 and 18/01206/OUT (178), 15/02486/OUT (Griffin) and 13/01819/OUT (Ruddington)

glossary of the Framework. In its entirety, and notwithstanding the assessment within the Strategic Housing Land Availability Assessment (SHLAA), which is more an evaluation of supply, I consider that it would not be PDL.

15. Even if it were, whilst there are existing shed/structures on site, these are small in proportion and the majority of the site is open/landscaped. Whilst in outline with all matters reserved, based upon the indicative site plan, the proposed development of two dwellings with associated access infrastructure would have a greater impact upon the openness of the Green Belt than the existing site. Therefore, it would not meet the exception criteria set out at paragraph 145(g) of the Framework.

### *Findings*

16. I have found that the proposal would be inappropriate development in the Green Belt. It would not represent limited infilling in a village, nor would it be development of PDL. It would therefore be in conflict with Policy 21 of the RLPP2 and guidance within the Framework that protects the Green Belt. This is a matter to which I attach substantial weight.

### *Effect on the openness of the Green Belt*

17. The Framework clarifies that the essential characteristics of Green Belts are their openness and their permanence. Openness is, in effect, the absence of development. Having regard to the case law cited by the appellants, it has both a spatial and visual aspect to it<sup>6</sup>.
18. From my observations, the existing shed/buildings on the site are relatively small scale, set amongst the trees and its overall character is one that is largely undeveloped. In this context, the introduction of two dwellings would significantly reduce the site's openness.
19. The proposal would also be likely to involve the creation of an area for parking and private amenity space, as well as domestic paraphernalia that typically accompanies a domestic use, such as washing lines and garden furniture. These elements would result in a permanent change to the character of the landscape. Furthermore, the dwellings would be evident from Melton Road. Even if the house to the rear would be screened to an extent by that to the front and masked by the man-made railway embankment to the west, the proposal would also still be visible from adjoining properties. It would consequently be visually harmful to the openness of the Green Belt.
20. The appellants have drawn my attention to further planning approvals in the vicinity of the appeal site<sup>7</sup>. Although I do not have full details of these decisions, neither the 'glamping' site nor the 18-child nursery constitute a residential development, whilst Foxcote and Highborne Lane were both conversions of agricultural buildings. The six detached dwellings at Hillcrest, opposite the appeal site, would replace a factory and the application was assessed as the redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development. Accordingly, I do not find them directly comparable with the appeal proposal, which I have assessed on its individual merits.

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<sup>6</sup> Samuel Smith Old Brewery (Tadcaster) v North Yorkshire CC [2018] EWCA Civ.489

<sup>7</sup> 17/02012/FUL and 18/00997 (Glamping) and 18/02288/FUL (6 dwellings)

21. Taking these matters together, the proposal would result in a permanent loss of openness that would be harmful to the Green Belt, contrary to national and local policy to protect it. This is a matter to which I also attach significant weight.

*Character and appearance*

22. The dwelling indicated to the front of the site would follow the typical arrangement of ribbon development along this part of Melton Road, broadly following the line of existing properties with a long garden to the rear. This is acknowledged by the extant planning permission for one dwelling cited above.
23. However, unlike these existing houses, the second dwelling would not present a frontage to the road. The indicative plan illustrates that it would be substantially set back, even beyond the position of the properties at 124 and 134 Melton Road, which are also set back generously from the road. Whilst there are other buildings within the vicinity, including Nos 176 and 156 (Moore's garden centre) that are set further back, these would not represent the primary neighbouring context in which the proposal would be seen.
24. Moreover, on my visit, I could see no other properties with a similar staggered relationship to the two dwellings proposed. Consequently, the indicative position of the second dwelling, being so far into the site, would extend the built form further into land that is currently open, contrary to the prevailing pattern of development.
25. For these reasons, taken as a whole, the proposal would be harmful to the character and appearance of the area. It would therefore conflict with guidance within the Framework that development should be sympathetic to local character, including the surrounding built environment and landscape setting.

**Other considerations**

26. When the Council determined the application, it had a housing land supply of less than 5 years. It updated its position following the formal adoption of the RLPP2 to 6 years, although this figure, as well as matters such as projected completions, is disputed by the appellant. In any event, neither local nor national planning policy limit housing land supply, or the number of dwellings required to be completed each year. Guidance within the Framework is also clear about the government's desire to boost housing supply.
27. The Framework further acknowledges the contribution that small sites can make, particularly as they are often built out relatively quickly, which would weigh in the scheme's favour. This could include windfall sites, being those not specifically identified in the development plan. These are not, however, reasons to set aside policy requirements elsewhere in the Framework.
28. I appreciate that the site would be accessible with a bus stop close by, providing a connection to services and facilities in larger settlements. But even if the Council was unable to demonstrate a 5-year housing land supply, unlike the appeal decisions cited by the appellants for 1200 and 170 homes respectively<sup>8</sup>, the addition of two dwellings (or one additional dwelling taking account of the extant consent on the front of the site) would have a minimal effect on supply.

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<sup>8</sup> Appeal Refs: APP/P3040/A/08/2083092 and APP/P3040/W/17/318549

29. I acknowledge that there would be some minor short-term benefits to the local economy in bringing new construction jobs, as well as to the wider supply chain. There would also be some longer-term support to local shops, schools and businesses in an area where the local population has evidently declined. The dwellings could also deliver an energy efficient scheme based upon a fabric-led approach. Nonetheless, taken together, the benefits arising from the magnitude of the proposal carries limited weight.
30. Moreover, amendments to the Green Belt boundary to facilitate housing growth within the identified Key Settlements in the Borough were considered through the Local Plan process. Even in the SHLAA, the site is noted as being suitable for housing delivery but only if policy changes 5+ years. These factors do not weigh in the proposal's favour.
31. I recognise that the Council has not raised specific concerns about the effects of the scheme on a number of other issues, including highway safety, ecology, noise and contamination. It could also use facing materials that complement the area and, based upon the indicative plans, not cause harm to the living conditions of adjoining occupiers. Furthermore, the proposal would tidy the site to the extent that the two concrete bases and concrete block building at least would be removed. However, and even in the absence of a response from Ward Members, none of these are matters that diminish the harms that I have identified in respect of the main issue above.
32. The appellants have also referred to the Council's processing of the application and a lack of substantive communication. However, in my determination of this appeal, I must have regard only to the planning merits of the case.

### **Green Belt Balance**

33. I have concluded that the proposal would be inappropriate development, which would, by definition, be harmful to the Green Belt and should not be approved except in very special circumstances. Whilst I acknowledge the case law cited by the appellants<sup>9</sup>, as set out above, I have not identified any benefits which would clearly outweigh the harm to the Green Belt by reason of inappropriateness. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

### **Conclusion**

34. For this reason, I therefore conclude that the appeal should be dismissed.

*Kate Mansell*

INSPECTOR

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<sup>9</sup> Carnwath LJ in *Wychavon DC v SSCLG* [2008] EWCA Civ 692; [2009] PTSR19 and *Ouseley J* Para.68 of R (Lee Valley Regional Park Authority) v Broxbourne BC [2015] EWHC185