The Planning Inspectorate

Appeal Decision

Inquiry held on 3 and 4 September 2013
Site visit made on 4 September 2013

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 October 2013

Appeal Ref: APP/P1805/A/13/2196784
Land adjacent to 705 Haslucks Green Road, Majors Green, Shirley, Worcestershire B90 1DW

- 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 G and G Gilbert against the decision of Bromsgrove District Council.
- The application Ref 12/0729, dated 24 August 2012, was refused by notice dated 11 April 2013.
- The development proposed is residential development of up to 26 dwellings and estate road.

Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by The Council against the appellant. This application is the subject of a separate Decision.

Preliminary Matters

3. A completed Planning Agreement was submitted to the Inquiry. The Agreement contains provisions which relate to: affordable housing; the improvement of bus stops; contributions to education; open space provision and contributions to sports clubs.

Main Issues

4. The main issues in this appeal are as follows;

   - Whether the proposal represents inappropriate development in the Green Belt and whether any other harm to the Green Belt or area would arise
   - Whether there is a satisfactory housing land supply
   - Whether the harm to the Green Belt 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

Whether the proposal represents inappropriate development in the Green Belt and whether any other harm to the Green Belt or area would arise

5. As set out in the Statement of Common Ground (SoCG), the main parties both agree that the development represents inappropriate development in the Green Belt. Policy DS2 of the Bromsgrove District Local Plan (LP) states, amongst other things, that permission for new buildings in the Green Belt will not be given unless it is for one of a few specified exceptions, or where very special circumstances exist. Residential development is not one of the specified exceptions. The National Planning Policy Framework (the Framework) makes it clear that the development proposed is inappropriate, which is by definition harmful to the Green Belt. It adds that substantial weight should be given to any harm to the Green Belt. In these circumstances there is clear conflict with local and national policy in relation to this matter.

6. The Framework states that the essential characteristics of the Green Belts are their openness and their permanence. The appeal site is currently used for growing trees and has an informal, natural appearance which is free from any buildings. This would change dramatically as a result of the proposal. Although it would include garden areas and a play area, the presence of up to 26 dwellings and associated features would destroy its current openness.

7. The Framework sets out 5 purposes of Green Belts. The Council alleges harm in relation to the purposes of: checking the unrestricted sprawl of large built up areas; safeguarding the countryside from encroachment and; assisting in urban regeneration by encouraging the recycling of urban land. In relation to unrestricted sprawl, the appellants argue that the neighbouring area is not a "large built-up area" and so does not prejudice this purpose. Majors Green is only separated from the continuous built-up area of the West Midlands conurbation by a very narrow section of open land, and in this respect, and in view of the size of Majors Green itself, I consider that it can fairly be viewed as part of a large built-up area. The appellant points out that the site is bounded by roads on 2 sides and a railway line on its other side, these representing permanent features which would contain the development and so not result in sprawl. I consider that the existing adjacent built-up area is well defined by the adjacent roads, making a clear and logical distinction between it and the Green Belt. This and the openness of the site give it a distinction from the built-up area. I see nothing illogical about the Green Belt boundary here. Additionally, the railway line represents only one of a number of boundaries between parcels of land in the area and using the appellants' logic, there is a danger that each one could subsequently be argued to form the boundary of another contained development in the Green Belt. Therefore, in relation to this purpose of the Green Belt, I consider that the proposal would run contrary to it.

8. The appeal site marks the clear start of an area of countryside, as distinct from the adjacent built-up area. It is agreed by the Council and the appellants, as set out in the SoCG, that the proposal would offend against the purpose of safeguarding the countryside from encroachment. I agree that this purpose would be prejudiced by the proposal.

9. With regard to assisting with the recycling of urban land, the appellants state that there is very little availability of brown-field land in the district and also adds that the Council have not suggested any individual sites which would not

be developed if the appeal site was to be built upon. In relation to the first point, the West Midlands Green Belt has a far greater influence than just within the boundaries of this District and the urban regeneration purpose can be seen as affecting more than this District. The second point is more a matter of principle than the appellants appear to appreciate; it would be unrealistic to seek to identify individual sites within urban areas and to seek to balance or trade-off Green Belt development with them. The matter is clearly broader than this and in my view the residential development of this site would accommodate some housing demand which may otherwise be more appropriately sited within the built-up area which could assist with urban regeneration. Therefore, the proposal offends against this purpose.

10. As a result of the inappropriateness of the proposal, its unacceptable effects on openness and its prejudicial effects on some of the purposes of including land within the Green Belt, I attach substantial weight to the harm that the proposal would have.

11. In relation to any non-Green Belt harm, the Council accepted that none would arise. On the basis of the evidence before me, I agree with this conclusion.

Whether there is a satisfactory housing land supply

12. Although the main parties had arrived at their respective assessments of housing need by different routes, it was acknowledged that their final figures were very similar. The RSS previously required that 4000 houses should be provided within the District between 2006 and 2021 (267 per year). The RSS has now been revoked and no longer forms part of the development plan but the appellant places weight on this figure and adds to it a shortfall in supply to 2013 of 719 dwellings, which gives a 5 year requirement of 2,054. The appellant then seeks to add 20% to this as a result of alleged persistent under delivery.

13. The Council state that the Worcestershire Strategic Housing Market Assessment (SHMA) has been based on more up to date population and demographic information and its evidence is being used to inform the housing policies in the emerging Bromsgrove District Plan 2011-2030 (BDP), formerly the Core Strategy. Figures within the SHMA indicate that there will be a need to meet demand for 7,000 homes in the period 2011-2030, which equates to 368 per year. Taking account of completions in 2011-2013 and a 5% buffer, this rises to 409 per year or a 5 year requirement of 2,045.

14. Although there is little difference in the quantum of demand in the 2 arguments, I consider that the Council's figures, which are based on more up to date evidence and calculations, offer the better evidential basis for arriving at a requirement. In relation to past under delivery, the Council points out that the shortfall arising from the year 2006 has been included in the SHMA in any event and so this element of demand is not lost.

15. In relation to the application of a 5% or 20% buffer, the Council explained that the previous Structure Plan target up to the period 2010/2011 was reached early and so the Council implemented a moratorium running from 2003 to 2009 during which time the Council effectively granted no residential permissions for market housing. This was combined with the recession which started to take effect around 2008. I acknowledge that the Council itself, as recently as 2012, included a 20% buffer in its own calculations. However, the Council now points

out that they consider that a longer time period is needed to indicate persistent under delivery (perhaps a whole plan period) and the underlying economic climate should include a whole cycle rather than just a recessionary period. I agree with the Council that the appellants' view is somewhat constricted and a wider perspective gives a truer picture in this case. Furthermore, the Council are now bringing forward their Areas of Development Restraint (ADR) sites, which now form allocations for development in the emerging BDP. Therefore, I consider that the Council is taking sufficient action to stimulate housing delivery. In these circumstances a buffer of 20% is not warranted.

16. The shortfall referred to above has been included within the Council's recent calculations and spread evenly over the remaining plan period (in this case to 2021), a method commonly referred to as the Liverpool method. The appellant is critical of this and considers that the shortfall should be addressed in the next 5 years, referred to as the Sedgefield method. Cases quoted support both arguments, but in this case I consider that the Liverpool method provides a more realistic trajectory that would reflect housing delivery as market conditions improve over the plan period.

17. In terms of supply, the Council indicate that they have 5.83 years of deliverable housing land. This consists of: commitments of 1,052 dwellings (comprising outstanding planning permissions and dwellings under construction); 'SHLAA capacity' of 1,212 and; windfall of 120 dwellings. The appellant is critical of this position as; the figures are untested; the shortfall for the delivery in the early years of the RSS plan period are not accounted for; an allowance should be made for lapsed unimplemented planning permissions; the windfall figure is too high and; the SHLAA sites are not deliverable. In relation to the previous shortfall, the Council has demonstrated the previous under-supply has been incorporated into the new requirement and so is not 'lost', as set out previously.

18. There is no reference in the Framework or other documents to the need or desirability of including an allowance for lapsed planning permissions; indeed, footnote 11 of the Framework states, amongst other things, that "[s]ites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years…". The appellant states that other local authorities include such an element in their calculations. However, I am not persuaded that there is any need to include an automatic figure for lapsed unimplemented planning permissions, particularly where no specific evidence is put forward in relation to individual sites. With respect to a windfall allowance, the cautious estimate of 30 per year set out by the Council appears to me to be realistic and reflects past years.

19. The appellant's view is clear; sites included in the SHLAA should not be considered as deliverable, as they do not have planning permission. I have given careful consideration to the cases referred to in the evidence and in particular to the *Wainhomes* case. My reading of this is that the Judge was not stating that sites without planning permission could not be considered as deliverable but he did accept that, where specific evidence was submitted in relation to individual sites, deliverability could be questioned. In the case before me the Council has responded to the appellants' generalised concerns of uncertainty by stating that it is in a position to respond to any criticism of the deliverability of any site within the SHLAA. It was notable that the appellants

did not seek to offer any such criticism and gave no site specific evidence. On the basis of the evidence before me, I find nothing to doubt the deliverability of any of the sites within the SHLAA and consider that their inclusion within the 5 year housing land supply figures is appropriate in this case.

20. As a result of my findings on this issue, I consider that the Council can satisfactorily demonstrate a supply of sites to provide 5 years worth of housing, plus a buffer of 5%.

Whether the harm to the Green Belt 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

21. The appellants set out a number of factors arising from the development which they consider would be of benefit, namely: contribution to housing supply; provision of affordable homes; improvements to pedestrian links to the railway station; improved bus stops; contributions to education facilities; contributions to cricket and rugby clubs; New Homes Bonus and; ecological improvements to the site. Some of these are to be secured through the completed Planning Agreement and I have taken account of this in reaching my conclusions. I see a number of these matters as being quite usual requirements of planning permissions and not of any special significance. Whilst some may be said to be benefits, in my judgement they are not sufficient to clearly outweigh the harm to the Green Belt, either by themselves, or in combination with other factors.

22. The appeal site is included within the District's Strategic Housing Land Availability Assessment (SHLAA) as site BDC204. The site has been assessed by the Council as falling within Category 4 '*Green Belt Potential'.* The explanation of this category notes that the inclusion of these sites does not mean that the Council considers that they are currently suitable for development but that they could be considered as part of a full Green Belt review in future. Notwithstanding the fact that the appeal site sits at the edge of this built up area, I consider that this does not add to the appellants' case.

23. Taking these matters together, I find that they are of insufficient substance to clearly outweigh the harm to the Green Belt, as set out above. I consider that the harm which would be caused by reason of inappropriateness and that caused to the openness of the Green Belt and some of the purposes of including land within it would not be clearly outweighed by any other matters; therefore, very special circumstances do not exist. The proposal would be contrary to the advice in the Framework and to Policy DS2 of the LP. As a consequence, the appeal is dismissed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss S Clover of Counsel	Instructed by T Lovejoy, solicitor District Council
She called	
Mr D Kelly	Bromsgrove District Council
Mr A Fulford	Bromsgrove District Council

FOR THE APPELLANT:

Mr P Taylor, Solicitor	
He called	
Mr L Wilbraham	Wilbraham Associates Ltd

INTERESTED PERSONS:

Mr P Goodwin	Local Resident
Mr A Bradstock	Local Resident
Cllr M Bullivant	District Councillor
Mrs D Sidwell	Local Resident

DOCUMENTS

1 Copy of final draft of S106 Agreement
2 Copy of emails confirming sending and receipt of rebuttal proof of evidence and costs claim
3 Copy of the *Shottery* judgement