

20/00910/OUT

Applicant Mr Ross Whiting

Location Land Between 110 And 112 Cropwell Road Radcliffe On Trent
Nottinghamshire

Proposal Outline planning application for the erection of 1 no. dwelling (all matters reserved except for access)

Ward Radcliffe On Trent

THE SITE AND SURROUNDINGS

1. The application relates to an area of scrub type grassland with deciduous trees between two houses towards the end of an area of ribbon development of predominantly interwar & mid to late 20th century suburban houses and bungalows within substantial plots to the south east of the built up part of Radcliffe on Trent, within the Green Belt.
2. There is a single width vehicular access from Cropwell Road which runs along the south eastern boundary with no. 112 to a dwelling (no. 110A) in a backland position to the rear of no. 112. There is a brick wall along the Cropwell Road boundary and part of the vehicular access and this part of the site was formerly a walled garden of no. 110. The land slopes downwards gradually from the road, and land to the south west is also within the applicant's ownership. There is a golf course on the opposite (north east) side of Cropwell Road.

DETAILS OF THE PROPOSAL

3. The application seeks outline planning permission with approval being sought for access, i.e. the existing vehicular access which also serves 110A Cropwell Road. All other matters are reserved for subsequent approval. However, an indicative layout plan has been submitted showing the footprint of a dwelling sited roughly central within the site.
4. A preliminary ecological survey has also been submitted.

SITE HISTORY

5. Outline permission for the erection of a dwelling was refused and an appeal was subsequently dismissed in 1994 (ref. 94/00341/OUT).
6. An application for the use of land for keeping of horses and construction of a stable building with surfacing around it was withdrawn in 2014 (ref. 14/02043/FUL), and permission was subsequently granted for a similar development in 2015 (ref. 14/02534/FUL).
7. Outline permission was refused for the erection of 1 no. dwelling (outline application with all matters reserved except for access) in January 2019, and an appeal was subsequently dismissed on 28 August 2019 (ref. 18/02721/OUT). The reasons for refusal included reference to the location of

the site within the Green Belt, giving rise to a fundamental policy objection to the proposal on the grounds that it represented inappropriate development causing harm to the Green Belt which was not outweighed by any 'very special circumstances'.

REPRESENTATIONS

Ward Councillor(s)

8. Three Ward Councillors (Cllr Brennan, Cllr Clarke and Cllr Upton) do not object.
9. Cllr Clarke comments; *'I am aware that this is located within the Green Belt which washes over this area. However, this site is clearly an "infill" site between 2 existing dwellings, one of which is at present being substantially extended. I do not believe the Green Belt was established to protect this type of site which, in my view, is an extremely logical use of an infill plot. As a result of non-development, it has been scrubland for decades and a single dwelling would represent a considerable improvement to the street scene. For these reasons I believe this is a perfectly acceptable exception to the presumption of no new development in the Green Belt.'*
10. Cllr Upton comments; *'in my opinion this is an "infill site" between two existing dwellings which has been scrubland for many years. I believe the proposed development would actually improve the street scene.'*

Town/Parish Council

11. Radcliffe on Trent Parish Council do not object.

Statutory and Other Consultees

12. The Environmental Sustainability Officer commented that the Ecological Appraisal was carried out in April 2019 and is, therefore, in date, although it was carried out outside the optimal time for species surveys, but appears to have been carried out in according to best practice. He also notes that this site was subject to planning application 18/02721/OUT, for which an ecological appraisal was provided which varies in conclusion from the latest appraisal.
13. He comments that wild birds are highly likely to be present within and adjacent to the site, and that records exist for Great Crested Newts (GCN) on adjacent land, including on a site 280m west and on the same side of Cropwell Road. The appraisal dismisses the likelihood of GCNs on the site due to the distance and suitable ponds being across Cropwell Road, but does not appear to have considered the site 280m to the west. However, that record dates from 1993 and does not appear to have been recorded since. Therefore, on balance, it is probably acceptable to regard GCN's as being unlikely to be found, although reasonable avoidance measures should be adopted. Bats are likely to be using the site for foraging and potentially roosting, and 3 trees on the site and 3 trees on adjacent land, within the applicant's ownership are identified with potential to support bat roosts, and there is the possibility of other protected and priority species.

14. He considers that the proposed development should not have a material impact on the favourable conservation status of a European protected species, provided appropriate mitigation is put in place, and that the development could provide a net gain for biodiversity. Recommendations in the appraisal should be subject of conditions on any permission.
15. The Environmental Health Officer has no objection but recommends a condition to prevent burning or waste on the site during construction, and a 'note to applicant' relating to construction times to ensure the minimum amount of disturbance to neighbouring residents:
16. The Nottinghamshire County Council as Highway Authority comment that the proposed development would increase vehicular flows along the private drive which has a single lane width, and that the applicant has sufficient control of the land to widen the access for two-way traffic to take place. They do not, therefore, wish to raise an objection subject to conditions to ensure occupation of the proposed dwelling does not take place until the access driveway has been widened to no less than 5.0 metres in width for a minimum distance of 5.0 metres behind the highway boundary and surfaced in a bound material, and the full width of the access driveway has been fronted by a vehicle crossing.

PLANNING POLICY

17. The Development Plan for Rushcliffe consists of the Rushcliffe Local Plan Part 1: Core Strategy (2014) and the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019). Also of relevance to this application is the Radcliffe on Trent Neighbourhood Plan, which is also part of the Development Plan.
18. Other material considerations include the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

Relevant National Planning Policies and Guidance

19. The National Planning Policy Framework 2019 (NPPF) which includes a presumption in favour of sustainable development.
20. Of relevance to the current proposal are Paragraphs 2 (Introduction) and 12 (Presumption in favour of sustainable development), and Chapters 13 (Protecting Green Belt land) and 15 (Conserving and enhancing the natural environment) of the NPPF.

Relevant Local Planning Policies and Guidance

21. Rushcliffe Local Plan Part 1: Core Strategy - Policy 1 (Presumption in favour of sustainable development) and Policy 4 (Nottingham-Derby Green Belt).
22. Rushcliffe Local Plan Part 2: Land and Planning Policies - Policy 1 (Development Requirements) and policy 38 (Non-designated biodiversity assets and the wider ecological network). Local Plan Part 2 also provides clarification on the definition of 'small scale infill development', and identifies the boundary of the settlement which is inset (excluded) from the Green Belt.
23. Policy 11 (Infill development) of the Radcliffe on Trent Neighbourhood Plan.

24. The Rushcliffe Green Belt review for Radcliffe on Trent (September 2017) is also relevant.
25. The appeal decision on 18/02721/OUT is an important material consideration in the determination of the current application.

APPRAISAL

26. Chapter 13 (Protecting Green Belt land) of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
27. It also states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
28. It goes on to state at paragraph 145 that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. A list of exceptions to this includes 'limited infilling in villages'.
29. Policy 4 (Nottingham-Derby Green Belt) of the Core Strategy states that the principle of the Green Belt within Rushcliffe will be retained and it will only be altered where it is demonstrated that exceptional circumstances exist.
30. Local Plan Part 2 provides clarification on the definition of 'small scale infill development' stating that '*small scale infilling is considered to be the development of small gaps **within the existing built fabric of the village**, or previously developed sites, whose development would not have a harmful impact on the pattern or character of the area*' (emphasis on 'within the existing built fabric of the village'). It also identifies the boundary of the area inset from the Green Belt and effectively defines the extent of the settlement for Radcliffe on Trent. The southern boundary is the A52/Grantham Road with land to the south, including the application site, within the Green Belt.
31. Policy 11 (Infill development) of the Radcliffe on Trent Neighbourhood Plan states '*The Neighbourhood Plan considers that infill development within the settlement boundary may be appropriate. A site constitutes infill development when it is bounded by existing development on two or more sides and is within the existing settlement boundary (as defined by the Local Plan: Part 1).*' The Local Plan Part 1: Core Strategy does not define the settlement boundary but Policy 4 refers to the review of the Green Belt boundary and '*establishing a permanent boundary which allows for development in line with the settlement hierarchy and/or to meet local needs*'.
32. Under the Rushcliffe Green Belt review for Radcliffe on Trent it was noted that the properties along Cropwell Road to the north west of the application site are set back in substantial grounds, especially those closer to the junction with the A52, which contributes to the openness of the Green Belt. It was therefore

concluded that, given the contribution the grounds of the properties make to the openness of the Green Belt, the properties along Cropwell Road should remain in the Green Belt.

33. The site is located towards the south eastern end of an area of ribbon development within the Green Belt, around 870m from the inset boundary, which follows the line of the A52. The proposed development would not, therefore, represent limited infilling 'within' a settlement as envisaged by the NPPF. It would also not be in accordance with the Local Plan Part 2 definition of small scale infill development, and would be contrary to policy 11 of the Neighbourhood Plan.
34. Consequently, the proposed development would represent inappropriate development in the Green Belt and there are no very special circumstances to outweigh the harm.
35. It is considered that the site makes some contribution to the openness of the Green Belt and that a dwelling in this location, together with widening of the vehicular access recommended by County Highways, would have an adverse impact on openness and would consolidate an area of ribbon development.
36. Application ref. 18/02721/OUT was refused on grounds that the development would represent inappropriate development in the Green Belt, and would materially harm the openness of the Green Belt and the rural character and appearance of the site and surroundings.
37. The inspector who determined the appeal agreed with the Borough Council that the development would represent inappropriate development in the Green Belt, and would materially harm openness. In particular, he made the following comments:
38. *'The appeal site is situated towards the end of built development as open countryside is beyond No 112 and the presence of the golf course opposite the built development adds to the rural character as the road extends towards Cropwell Butler.'*
39. *'I do find that the A52 Grantham Road which is the settlement boundary does physically define the extent of the village. In my view, the appeal site is therefore beyond the village. For these reasons, I do not consider that the appeal site is within the village despite being close to the centre and its facilities. Accordingly, the proposal would be inappropriate development as it does not represent limited infilling in a village.'*
40. With respect to openness he commented; *'The openness of the Green Belt is clearly evident from the appeal site with the golf course across the road and the open countryside beyond No 112. The dwellings on this section of the road are set in spacious plots and set back from the road which adds to the openness. Whilst there is an existing single track access, the Council has requested that the access be widened for a minimum of 5 metres behind the highway boundary and surfaced in a bound material that would impact further upon the openness. The appellant refers to the limited landscape impact to the proposal and the fact that there are no rights of way close to the site. Nonetheless, the proposal would introduce development where none currently exists and would thus lead to a materially greater impact on the openness of*

the Green Belt. On the basis that I have characterised the site as open countryside rather than part of the village, the development would impact on the Green Belt purpose of safeguarding the countryside from encroachment.'

41. This is a very recent appeal decision, determined in August 2019. Since the appeal decision, the Local Plan Part 2 has been adopted which, through Policy 21, reinforces that applications will be determined in accordance with the National Planning Policy Framework. Therefore, the appeal decision and comments of the Inspector should be given significant weight in the determination of the current application.
42. Whilst the site area has been reduced and a detached garage indicated on 18/02721/OUT is not now indicated, it should be noted that matters of layout, scale and appearance are reserved for subsequent approval and the development would be fundamentally the same as the proposal dismissed at appeal. It should also be noted that the list of exceptions in the NPPF (paragraph 145) referred to in paragraph 28 represent a 'closed list' and are clear and not open to interpretation, and that the development would clearly not represent limited infilling in a village.
43. Paragraph 2 of the NPPF states that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990) requires that applications for planning permission be determined in accordance with the development plan, including Neighbourhood Plans, unless material considerations indicate otherwise, and that the NPPF is a material consideration in planning decisions.
44. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
45. In this case, the proposed development is contrary to the objectives of policy 4 (Nottingham-Derby Green Belt) of the Core Strategy and contrary to policy 11 of the Neighbourhood Plan, both of which are part of an up-to-date development plan. It would also not comply with the Local Plan Part 2 definition of small scale infilling, and is contrary to policy 21 (Green Belt) which requires applications to be determined in accordance with the NPPF. The presumption in favour of sustainable development does not, therefore, apply in this case.
46. In view of the above, the Borough Council's decision on 18/02721/OUT and the very recent appeal decision for the same development proposed now, and as there are no material considerations to indicate a decision other than in accordance with the development plan, planning permission should be refused on grounds that the development would represent inappropriate development in the Green Belt, and would materially harm openness.
47. Chapter 5 (Conserving and enhancing the natural environment) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by (amongst others) minimising impacts on and

providing net gains for biodiversity.

48. Policy 38 of Local Plan Part 2 requires, where appropriate, to seek to achieve net gains in biodiversity and improvements to the ecological network through the creation, protection and enhancement of habitats, and the incorporation of features that benefit biodiversity.
49. The Borough Council has a legal duty when determining a planning application for a development which may have an impact on protected species. The species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats Etc) Regulations 1994, contain three tests which Natural England must apply when determining a licence application. This licence is normally obtained after planning permission has been obtained. However, notwithstanding the licensing regime, the Planning Authority must also consider these tests when determining a planning application. A Planning Authority failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations. The three tests are:
 - a. the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - b. there must be no satisfactory alternative; and
 - c. favourable conservation status of the species must be maintained.
50. The ecology survey submitted with 18/02721/OUT was carried out outside the optimal time for species surveys and it was considered that the development could have a material impact on the conservation status of European protected species. Consequently, permission was also refused on grounds that it had not been demonstrated that proposed development would not result in an unacceptable impact on biodiversity. A further survey, carried out in April 2019 at a more optimal time, was submitted during the course of the appeal and the inspector considered that recommendations in the survey could have been dealt with by way of condition.
51. The ecology survey submitted with the appeal has been submitted again with the current application. In view of the comments of the appeal inspector and the Environmental Sustainability Officer who considers that the proposed development should not have a material impact on the favourable conservation status of a European protected species, provided appropriate mitigation is put in place, it is considered that it is not necessary to apply the tests in this instance.
52. Policy 1 (Development Requirements) of Local Plan Part 2 states permission for new development will be granted provided that (amongst others) the scale, density, height, massing, design, layout and materials of the proposal are sympathetic to the character and appearance of the neighbouring buildings and the surrounding area, and would not lead to an over intensive form of development, or be overbearing in relation to neighbouring properties, nor lead to undue overshadowing or loss of privacy.
53. It is considered that the proposed development including widening of the vehicular access would have some adverse impact on the rural character of the site and surroundings. However, it is likely that a dwelling could be designed which would be sympathetic to neighbouring dwellings, and which

would ensure an acceptable level of amenity for future occupants and occupants of neighbouring properties.

54. Notwithstanding the comments in paragraphs 49-53 relating to ecology character and amenity, the Committee's attention is drawn to the fundamental policy objection relating to development within the Green Belt, discussed above, and it is, therefore, recommended that permission is refused.
55. The application was not subject to pre-application negotiations. There is a fundamental objection to the development which, it is considered, cannot be overcome and negotiations with the applicant have not, therefore, taken place.

RECOMMENDATION

It is RECOMMENDED that planning permission be refused for the following reason(s)

1. The site is located in an area of ribbon development in the Green Belt outside the built up part of the settlement of Radcliffe on Trent, and it is considered that the proposed development would not represent limited infilling in a village. Consequently, the proposed development would represent inappropriate development in the Green Belt and would, therefore, by definition, be harmful to the Green Belt, and there are no very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness and through harm to its openness and character. The development is, therefore, contrary to the objectives of Chapter 13 (Protecting Green Belt land) of the National Planning Policy Framework, the objectives of Policy 4: (Nottingham-Derby Green Belt) of the Rushcliffe Local Plan Part 1: Core Strategy, and contrary to Policy 21 (Green Belt) of the Rushcliffe Local Plan Part 2: Land and Planning Policies and Policy 11 (Infill development) of the Radcliffe on Trent Neighbourhood Plan.
2. Due to its likely siting and scale, it is considered that the proposed development would consolidate an area of ribbon development which would materially harm the openness of the Green Belt and the rural character and appearance of the site and surroundings. The development is, therefore, contrary to the objectives of Chapter 13: (Protecting Green Belt land) of the National Planning Policy Framework and Policy 4: (Nottingham-Derby Green Belt) of the Rushcliffe Local Plan Part 1: Core Strategy.