

Derby City Council

Response to MIQs – 31st March 2016

**Appendix 2: Green Wedge Appeal
Examples**

Appeal Decision

Site visit made on 26 May 2015

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 02 June 2015

Appeal Ref: APP/C1055/W/15/3003445
Humbleton Barn, Radbourne Lane, Derby DE22 4LX

- 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 Pat Weekes against the decision of Derby City Council.
 - The application Ref DER/03/14/00408/PRI, dated 21 March 2014, was refused by notice dated 7 October 2014.
 - The development proposed is residential development (four dwellings).
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal site is situated on land described in the City of Derby Local Plan Review 2006 (*'the CDLPR'*) as a 'green wedge', which separates the neighbourhoods of Mackworth and Mickleover. Outline planning permission is sought for the erection of four dwellings. Access is to be considered now. Appearance, landscaping, layout and scale are reserved matters.
3. The **main issue** is the effect of the proposal on the character and appearance of a locally designated green wedge and, linked to that, whether any harm arising from the development is justified by other considerations.
4. The appellant considers that the CDLPR has been adopted before the publication of the National Planning Policy Framework. However, saved policy E2 is relevant because it relates to development proposals in the green wedge. In my view, it should not be considered out-of-date simply because it was adopted prior to the publication of the Framework. Due weight should be given to the policy according to its degree of consistency with the Framework; the closer it is to the policies in the Framework the greater the weight it carries.
5. At the heart of the Framework is a presumption in favour of sustainable development. Paragraph 7 advises that the environmental role of sustainable development involves contributing to protecting and enhancing our natural, built and historic environment. Taking account of the different roles and character of different areas is one of the core planning principles set out in paragraph 17.
6. Paragraph 9.5 of the CDLPR sets out the Council's longstanding policy to protect the open character of green wedges between communities by firmly resisting inappropriate development. The essential characteristics of green

wedges are that they have an open and undeveloped character and penetrate the urban area from the open countryside. Their primary function is to define and enhance the urban structure of the City as a whole. In my opinion, the main aims of policy E2 is to restrict development in these locally designated areas so as to protect them from unwarranted development. I find the aims of policy E2 broadly consistent with the objectives of the Framework.

7. The Council state the draft Core Strategy Part 1 (CS) is at a very early stage and it carries little weight in the context of this appeal. A green wedge review has been carried out to support the CS. The prediction is that land inside the green wedge is likely to be released for housing, but the site is situated in an area which is not recommended for release. The report identifies this area as being part of an important green wedge, because it forms an expanse of open space between the neighbourhoods of Mackworth and Mickleover.
8. Humbleton Barn is a residential property and it is situated close to Moorcroft Farm. The appeal site comprises a workshop building, manège and stable block. The complex is accessed via a single track off Radbourne Lane.
9. The land surrounding the site is generally flat and agricultural. While built forms are noticeable from the site, in the foreground, there are open fields defined by hedgerows and trees. Given the absence of built form in the immediate vicinity of the site, the appearance is of an undeveloped and vast open space. The area in which the site is located forms a wide barrier between the built-up parts of the City and the surrounding countryside. In this particular location and setting, the open nature and quality of the green wedge has an important role and function. It defines and enhances the urban structure of the City. The fact that recent developments along the periphery of the built-up area are visible reinforces the importance of protecting this part of the locally designated green wedge from unwarranted development, in my view.
10. The proposal would only affect a site that is 0.21 ha. Matters such as the dwellings' design, layout and appearance are for future consideration. Nevertheless the proposal would introduce four dwellings and associated infrastructure in this part of the green wedge. The development would significantly reduce the open aspect of the green wedge. It would be out-of-keeping with the open and undeveloped quality of the green wedge and it would undermine its purpose.
11. Additionally, four dwellings are likely to result in the creation of separate residential curtilages attached to the properties. All the trappings associated with residential living would be introduced in this part of the designated green wedge, because of the proposal. I consider that the development would diminish the open aspect of this part of the green wedge and have a materially greater impact on the openness of the green wedge and purposes of including land within it than the existing buildings. The development would represent encroachment into the countryside due to the location of the site.
12. The CDLPR policy E2 states that permission will be granted for the redevelopment of buildings, other than dwellings, for residential development and supporting facilities. But only if the original buildings are genuinely redundant and surplus to requirements and the site adjoins nearby residential areas. The supporting text, paragraph 9.11, states that circumstances may arise where existing non-residential buildings in green wedges become redundant and pressure for redevelopment arises. Planning permission for

- residential development may exceptionally be granted on previously-developed sites in the green wedge.
13. The appellant maintains that the existing buildings are no longer used for commercial purposes and they are redundant. However, the appellant's wife keeps a horse for recreational purposes in the stable block. I saw the workshop is utilised for storage purposes and the appellant confirms it is used to store fishing equipment. To me, it appears the structures are used in connection with the residential use of Humbleton Barn. The original buildings are not genuinely redundant and surplus to requirements.
 14. Even if an alternative view is to prevail on the current use of the existing buildings, the proposal would fail CDLPR policy E2. This is because the site does not adjoin nearby residential areas because of its detached location and setting. Therefore, whilst previously-developed land, the exceptional circumstances required to justify the development do not exist in this case.
 15. Pulling all of the above points together, I conclude that the proposal would significantly harm and undermine the integrity and qualities of the green wedge.
 16. The appellant advances the following arguments, underlined and evaluated, in favour of outline planning permission.
 17. The Council cannot demonstrate a five-year housing land supply¹: Paragraph 14 states a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies indicate development should be restricted. Contrary to the appellant's assertions, I have found CDLPR policy E2 not out-of-date for the purposes of this appeal.
 18. Paragraph 47 of the Framework states to boost significantly the supply of housing, local planning authorities (LPA) should use their evidence base to ensure that their local plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition, authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five-years worth of housing against their housing requirements.
 19. Paragraph 49 states housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. However, in this context, CDLPR policy E2 does not have a bearing on the supply of housing; it relates specifically to protecting the open character of the green wedge between communities by firmly resisting inappropriate development.

¹ The appellant refers to statistics and policies contained in the East Midlands Regional Spatial Strategy. However, it has been revoked by the Regional Strategy for the East Midlands (Revocation) Order 2013, which came into force on 12 April 2013.

20. The site is previously-developed land and there is a deficiency in the five-year supply of deliverable housing sites. That said this particular scheme would make a small contribution to the housing supply. On the other hand, the development would harm the open nature and character of the green wedge. This is because of the site's location and positioning. The harm to the openness of the green wedge would be significant given the nature and scale of the development.
21. There has been a review of the green wedge and land would need to be released in the future to meet housing need: On the other hand, the Council confirms the site is located in an area where the review does not recommend release of land in the green wedge for future development.
22. The site is located in a sustainable area close to the built-up parts of the City: It is close to local amenities. Additionally, it has strong boundary features such as trees and hedgerow, but environmental harm would potentially be caused by the site's residential development.
23. The proposed development would not have an adverse effect on highway safety: Bancroft Consulting's report shows that the residential development would not increase the risk to other highway users, due to the location of the access. Subject to suitably worded conditions, I do not have an in principle objection to the proposed access arrangements.
24. There would be no effect on ecology: The report by EMEC Ecology found no evidence of roosting bats. The proposed development would not harm local ecology.

Planning balance

25. Some weight is given to the finding that the proposed development would make a contribution towards the supply of housing in the area. Additional weight is given to the potential redevelopment of a previously-developed site and potential economic and social benefits arising from the residential scheme.
26. On the other hand, I have found that the development would harm the character and appearance of the green wedge. To this finding I attach substantial weight.
27. On balance, the other considerations advanced, individually or together, do not outweigh my finding on the first main issue above. Accordingly, the development would, in principle, conflict with CDLPR policy E2.

Conclusion

28. For the reasons given above and having considered all other matters including the supporting planning statement, I conclude that the appeal should be dismissed.

A U Ghafoor

Inspector



Appeal Decision

Site visit made on 12 May 2015

by **P Eggleton BSc(Hons) MRTPI**

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

Decision date: 21 May 2015

Appeal Ref: APP/C1055/W/14/3001441 **30 The Hollow, Mickleover, Derby DE3 0DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Jervis against the decision of Derby City Council.
 - The application Ref DER/03/14/00374/PRI was refused by notice dated 21 November 2014.
 - The development proposed is nine dwelling houses and associated access road and infrastructure.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the character and appearance of the area.

Procedural Matter

3. The initial application was for nine dwellings. Before the decision was made, the number was reduced to five. The decision notice relates to the five dwelling scheme. I have considered the appeal on that basis.

Reasons

4. Policy E2 of the City of Derby Local Plan Review 2006 (LP) establishes that development will only be permitted in Green Wedges if it falls within one of a number of categories. This proposal is within the Green Wedge and it does not fall within the categories listed. The main aim of the policy is to maintain openness. The primary function of the Green Wedges is to define and enhance the urban structure of the City. The LP advises that these wedges create a more attractive and interesting form to the overall pattern of development and bring the countryside closer to development areas.
 5. The Green Wedges are described as having two essential characteristics. They have an open and undeveloped character; and they penetrate the urban area from the open countryside. The Green Wedge is unusual in this location given that the houses extend across it and are washed-over by the designation.
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6. The appeal site is open land but I understand that it formed part of the relatively large garden of 30 The Hollow. Beyond it, to the north, is a single large field which is bounded by roads to the north and east. The houses to the north of the appeal site, back onto this field. They all have clearly defined gardens and include various garden buildings. The gardens of the houses to the south-east generally have similar gardens, the more formal parts of which, follow a relatively clear rear alignment.
7. The land to the rear of the clearly defined parts of the gardens of the properties to the south-east appears to be in two distinct sections. About half of the properties have areas of what appears to be less formal garden land beyond the more formal garden areas. These areas appear to be of a similar nature to the rear element of the appeal site. They remain heavily vegetated and apart from the neighbouring garage building, they appear to be undeveloped. The properties beyond have an unused area of land between their gardens and the main field to the north. This land is open with only relatively low-level vegetation but it is clearly visible from the adjoining road.
8. The proposal would link the two sections of housing on Haven and Haven Balk Lane. These two single rows of houses are currently separated by the large side garden of number 30. Four new houses would be built beyond the clearly defined building line of these houses. I am satisfied that the existing gap in this linear form of development makes only a limited contribution to the wider context, as it is so closely associated with the existing houses to each side. The openness of the land beyond is not perceptible from the road.
9. Development in depth would be entirely at odds with the existing character of the housing in the vicinity. The properties already prejudice the openness of the Green Wedge but as a single line of houses, along only one side of the road, the openness of the area to both the west and the east is retained. The proposed development in depth would prejudice this openness. I also find there to be little to distinguish the rear of this site from the land beyond the more formal areas of gardens of the properties to the south-east.
10. The LP establishes that the retention of areas of open land between separate parts of the City helps to maintain their identity and reduces the impression of urban sprawl. This existing line of houses already undermines the separation between the distinct urban areas to the north and south. These houses do however compensate for this, to some extent, by being of a linear form with open countryside to one side of the road. The area therefore retains a very rural character, in contrast to the more densely developed adjoining areas of the settlements. Introducing in depth development, which would be served by a relatively wide access, would detract from the openness of this area and would be harmful to its existing character.
11. I find that the proposal would be contrary to Policy E2 and it would also undermine its main objective of maintaining the openness of the Green Wedge. I also find that the proposal would detract from the existing character and appearance of the area. In this respect, it would be contrary to Policy GD4 which seeks to preserve or enhance local distinctiveness and respect the urban grain of the surroundings.

12. I also have concerns with regard to the detail of the proposal. The dwelling on plot 2 would have a bedroom window very close to the high boundary fence. The outlook from it would be extremely poor. Although only a single storey property, it would also be intrusive when in the immediately adjoining gardens. Given the space available, I consider that the position and layout of this property represents poor design. It would not achieve the standards sought by Policy E23. The *National Planning Policy Framework* is clear that permission should be refused for development of poor design.
13. The Council does not dispute that it currently does not have a five-year supply of housing land. In such circumstances, the *Framework* advises that policies relevant to the supply of housing should not be considered up-to-date.
14. The Green Wedges emphasise the benefits of retaining the designated area as open land. They do not have the permanence of Green Belts and are likely to be the subject of review from time to time in order to meet future development requirements. However, I am not satisfied that Policy E2 is a policy that is relevant to the supply of housing, as envisaged by paragraph 49 of the *Framework*. It takes account of the different roles and character of different areas and it recognises the intrinsic character of the countryside. The main functions are consistent with the core principles of the *Framework*. I also find support from the design objectives of the *Framework* which identify the importance of addressing the connections between people and places; the integration of new development into the natural and built environment; and the promotion and reinforcement of local distinctiveness.
15. I acknowledge that the *Framework* does not refer to local allocations such as Green Wedges. I accept also that given the former garden use, the site is not perceived as being part of the open countryside. It is not clearly visible from public vantage points and it does not perform a specific function with regard to recreation. Despite these matters, I consider that Policy E2 remains consistent with the principles and objectives of the *Framework*. Policies GD4 and E23 similarly reflect its design objectives. Despite the age of the LP, these elements of the development plan can be afforded significant weight.
16. The development plan remains the starting point for decision making. Proposals that conflict with it should be refused unless other material considerations indicate otherwise. The *Framework* also requires that there is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision taking.
17. The lack of a five-year supply of housing land and the provision of additional housing provides considerable weight in favour of this proposal. The scheme would add variety to the types of houses available and I am satisfied that the houses could be built to high standards with regard to sustainability. The site, although not part of a consolidated area of a settlement, is not a significant distance from local shops or other services. There is a footpath, with street lighting, to the relatively nearby facilities of Mickleover. It represents a reasonably sustainable location for new development.
18. Although concerns have been raised with regard to the frontage bungalow, I am satisfied that this would sit comfortably within the plot, particularly given the proposed landscaping. This would not conflict with the design aspirations

- of the LP. The design shortcomings and the harm to the character of the area prevent the proposal from falling entirely within the definition of sustainable development but it does have good sustainability credentials which weigh heavily in its favour.
19. I have been provided with a number of other decisions. Of most significance, is the recent permission granted by the Council, allowing frontage development within this site. I find this to be a pragmatic approach to the housing situation. The gap between the houses makes a relatively limited contribution to the general openness of the area. The contribution to the housing stock would, given the housing supply position and the absence of harm to the character of the area, help to outweigh the limited reduction in openness and the conflict with Policy E2.
 20. The appeal at St Mary's Court (APP/K2420/A/11/2167650) allowed development that would consolidate an area of existing housing on the edge of the Green Wedge. It would appear that this would, to some extent, round-off the alignment of the settlement edge. Its impact on the Green Wedge would be limited and the benefits of additional housing significant. I do not find it to be directly comparable to this proposal.
 21. The permission granted for 190 dwellings at Fellow Lands Way indicates that the Council accept that the housing position can outweigh the requirements of Policy E2. In that case, the proposal would result in the edge of the settlement extending further into a much wider area of Green Wedge. This differs from this proposal which would represent the consolidation of development centrally, within a relatively limited area of Green Wedge.
 22. I do not have full details of the proposal in relation to Hinckley Golf Club. The appeal decision (APP/K2420/A/10/2142660) accepted 232 dwellings in the Green Wedge. It is clear from the inspector's report that the Council accepted that the development would not have a detrimental effect on the Green Wedge as it was an insignificant component within its overall area and played no material role in any of the defined functions. This differs from the current proposal.
 23. Overall, the lack of housing land supply provides considerable weight in favour of this proposal. The development would result in a number of benefits and has a number of features that contribute to enhancing its sustainability credentials. However, I have found that it would be out of keeping with the form and layout of development in this distinctive area and it would detract from its character. It would also reduce the openness of the Green Wedge.
 24. Although there are a number of matters that provide considerable weight in favour of this proposal, they are not sufficient to outweigh my concerns. These considerations do not indicate that a decision contrary to the requirements of the development plan should be made in this instance. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR