
Appeal Decision

Site visit made on 22 February 2017

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 31 March 2017

Appeal Ref: APP/Q4625/W/16/3162009

Land adjacent to 61 Wood Lane, Earlswood, Solihull B94 5JH

- 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 Mark Palmer against the decision of Solihull Metropolitan Borough Council.
 - The application ref: PL/2016/02013/PPFL, dated 4 August 2016 was refused by notice dated 13 October 2016.
 - The development proposed is change of use of garage to holiday home.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of garage to holiday home at Land adjacent to 61 Wood Lane, Earlswood, Solihull B94 5JH, in accordance with the application ref: PL/2016/02013/PPFL, dated 4 August 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details thereon: drawing nos. 2874/001 rev D, 2874/002 rev C & 2874/004 rev A.
 - 3) The use hereby permitted shall be for holiday accommodation only. The building shall not be occupied as permanent, unrestricted accommodation or as a primary place of residence. An up-to-date register of names and main home addresses of all occupiers shall be maintained and shall be made available at all reasonable times to the local planning authority.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions shall be made to the building the subject of this permission and nor shall any building, structure or enclosure be erected within the site edged red on the approved site plan (other than the southern boundary fence indicated on that plan, drawing no. 2874/004 rev A).

Reasons

2. As the appeal site is in the West Midlands Green Belt the **first main issue** is whether or not the proposed re-use of the existing building on the site would be inappropriate development in the Green Belt, for the purposes of development plan policy and the *National Planning Policy Framework*. The
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proposal's effects on the openness of the Green Belt and in relation to the purposes of including land in the Green Belt are relevant to this issue. If the proposal is found to be inappropriate development, the **second main issue** is whether the harm arising from inappropriate development and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify the development.

3. The development plan is normally the starting point for assessing development proposals but Policy P17 (Countryside and Green Belt) of the Solihull Local Plan (LP) (2013) does not address in detail how proposals for development in the Green Belt should be assessed. It states that inappropriate development in the Green Belt will not be permitted except in very special circumstances, and sets out some provisions that will apply "in addition to the national policy" (in the Framework).
4. In the *Framework*, paragraph 90 establishes that re-use of a building in the Green Belt will not be inappropriate development provided it is of permanent and substantial construction; it preserves the openness of the Green Belt; it does not conflict with the purposes of including land in Green Belt. Additional provisions in LP Policy P17 include a proviso that a new use of a building and any associated use of land surrounding the building should not conflict with, nor have a materially greater impact on, the openness of the Green Belt and the purposes of including land in it. This part of the policy also expects the form, bulk and general design of the buildings to be in keeping with their surroundings.
5. The existing building in this case is a relatively modern, brick-built triple garage with pitched, tiled roof and there is no dispute that it is of permanent and substantial construction. Moreover the submitted plans indicate it could be adapted for the proposed use with some alterations to door and window openings but without any need to extend the building. Using the building itself as a holiday home would not therefore affect the Green Belt's openness.
6. The Council's appeal statement indicates its principal concern is the potential for intensified domestic use of the site and consequent urbanising impacts. It relies in part on a 2016 appeal decision dismissing a proposal for change of use to a permanent dwelling¹. The much larger site in that scheme included all the land behind the building, which slopes down towards a public footpath around the adjacent lake². Noting the likelihood of occupiers of a permanent dwelling introducing features such as hard and soft landscaping, patio/seating area, paths, a variety of domestic paraphernalia and some form of outdoor storage, the Inspector found that proposal would result in some loss of openness. Given the size and nature of the rear area in that scheme, I do not disagree.
7. It is however relevant to note that openness in a Green Belt context means, at its simplest, an absence of built forms and structures. Thus it is important to distinguish between solid physical features which could reduce openness (such as outdoor seating or a storage shed for example) and 'an increased level of pedestrian and vehicular access to the site' which the Council suggests would have an urbanising impact³. Increased levels of activity, such as people

¹ Appeal ref: APP/Q4625/W/16/3142736, decision dated 28 April 2016

² The appellant refers to that plot length as being 35m

³ In paragraph 6.7 of the Council's appeal statement

coming and going or children playing for example, might have some impact on an area's character but would not diminish the Green Belt's openness.

8. In the proposals before me the size of the outdoor space to the rear of the building would be very substantially smaller than in the previous appeal. A fence defining the rear boundary of the holiday home site would be roughly 5m away from the building's rear wall. The post and rail style of fencing as proposed would have negligible impact in terms of openness and the limited size of the outdoor area would substantially reduce the scope to introduce other physical features which might reduce openness. Moreover a condition could be imposed to restrict permitted development rights for various types of development which might reduce openness.
9. As I understand it the appeal site was once part of the plot of a previous dwelling at no. 61, and the garage building was built before redevelopment with replacement dwellings (nos. 61 and 63). The appeal site is currently in separate ownership from no. 61, and is fenced off from that property. Even so, it appears the Council acknowledges that the (currently disused) garage could be brought back into use as an incidental building for use by occupiers of no. 61. Bearing that in mind, and given the modest size of the proposed two-bedroom holiday home, I find it very unlikely that any vehicle parking associated with the proposed use would have any greater impact on openness than use as a garage or other domestic outbuilding. In this respect the Green Belt's openness would be preserved.
10. Taking account of all the above matters I conclude the proposed use as a holiday home would not conflict with the *Framework* or with LP Policy P17 in terms of impact on the openness of the Green Belt.
11. It is also necessary to consider whether the proposal would conflict with the purposes of including land in the Green Belt. Only one of the five purposes set out in *Framework* paragraph 80 is potentially applicable in this case: that is, to assist in safeguarding the countryside from encroachment. However, the existing building/land has previously been part of a residential property; other than the proposed fence, no additional development is proposed or required for the purposes of holiday use; the site is located at one end of a ribbon of existing built development; it is adjacent to a public car park (to the east) and public footpath (to the south) used by visitors to the adjacent lake.
12. In short, the site is in a locality where there are already significant amounts of both buildings and activity, such that the effects of re-using the existing small building as a holiday home would have negligible impact on the character of its surroundings. Thus, in this particular site context, I find that the appeal proposal would neither amount to an encroachment into the countryside nor conflict with any other purpose of including land in the Green Belt. Moreover there is no suggestion that the form, bulk and general design of the existing building is not in keeping with its surroundings.
13. Overall on this issue therefore I conclude the appeal proposal would not constitute inappropriate development in the Green Belt. It would not conflict in this respect with either the *Framework* or the development plan. That being so, there is no need to consider whether there are other considerations weighing in favour of the proposal.

Other matters, conclusions and conditions

14. I note the Parish Council's concern that the proposal involves a change from 'domestic' to 'business'. Firstly however a holiday home is generally still treated as a dwelling for planning policy purposes, even if its occupation is restricted by condition. Secondly, as highlighted in the appellant's statement, the supporting text to LP Policy P17 acknowledges the support in the *Framework* for sustainable rural tourism and leisure development. There are various leisure facilities in this particular locality likely to be attractive to holidaymakers, not least the adjacent lake. In the absence of any explanation as to why a holiday home contributing to the rural economy would be less acceptable than a residential use, I give no weight to that objection.
15. I have had regard to all other matters raised but have found nothing sufficient to alter or outweigh my conclusion that the appeal proposal would not be inappropriate development in the Green Belt. Nor would it materially conflict with the development plan in any other respect and overall therefore I conclude the appeal should succeed and planning permission should be granted subject to conditions.
16. A condition specifying the approved plans is needed to provide certainty. In this Green Belt location where proposed re-use as a permanent residential dwelling has recently been found unacceptable, it is reasonable and necessary to limit use of the premises to holiday purposes only. However, as the Council's suggested condition to this effect is not sufficiently clear, I shall use some more appropriate wording. For similar reasons, and to protect the openness of the Green Belt, it is reasonable to remove permitted development rights for extensions to the building and for incidental structures and outbuildings within the curtilage identified on the layout plan. Again I shall vary the Council's suggested wording, to tailor the condition to the particular circumstances in this case.
17. However in the absence of any convincing justification of the need to do so, I shall not require either additional landscaping of this already established site or any (unspecified) drainage works.

Jane Miles

INSPECTOR