
Appeal Decision

Site visit made on 16 May 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 06 June 2017

Appeal Ref: APP/Q4625/W/17/3168927

Pear Tree Cottage, Netherwood Lane, Chadwick End, Solihull B93 0BD

- 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 & Mrs Fogarty against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2016/02828/PPOL, dated 7 November 2016, was refused by notice dated 30 December 2016.
 - The development proposed is described as "*Outline application for the erection of one dwelling (except for access, all matters are to be reserved for future consideration)*".
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of one dwelling at Pear Tree Cottage, Netherwood Lane, Chadwick End, Solihull B93 0BD in accordance with the terms of the application, Ref PL/2016/02828/PPOL, dated 7 November 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the formal decision differs to that in the banner heading to remove wording that is not an act of development.
3. The appeal was submitted in outline with all matters except for access reserved for subsequent approval. The appellant submitted plans with the application illustrating how the site could be developed with a detached 3 bedroom house. As the application is in outline the appellant is not tied to the detail shown on the plans. However, given that it shows how the proposed dwelling could be accommodated on the site, I have treated this as indicative of the appellant's intentions and have assessed the application on this basis.

Main Issues

4. The main issues are:-
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - If the proposal is inappropriate development 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. The appeal site comprises part of the garden to Pear Tree Cottage adjacent to the junction of Netherwood Lane and an access drive to Marlpit Cottage. There
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- are hedges and landscaping on both sides boundaries and that with Netherwood Lane. On the opposite side of the access drive is a dwelling named 'Meadowcroft'.
6. Apart from certain clearly defined exceptions set out in paragraph 89 of the Framework the construction of new buildings in the Green Belt is to be regarded as inappropriate development. The listed exceptions in paragraph 89 include limited infilling in villages.
 7. Policy P17 of the Solihull Local Plan (LP) states that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances. It goes on to state that "*Limited infilling will not be considered to be inappropriate development within the Green Belt settlements, providing this would not have an adverse effect on the character of the settlements. Limited infilling shall be interpreted as the filling of a small gap within an otherwise built-up frontage with not more than two dwellings.*" This policy is consistent with the Framework. The supporting text says that Chadwick End is one of the three settlements where the provisions of LP Policy P17 apply. There is no dispute between the 2 main parties that the site is within the settlement of Chadwick End.
 8. The appeal site forms part of the gap between existing properties Peartree Cottage and Meadowcroft. The Council consider that the size of the gap between these 2 properties is considerable, if the methodology used by the Inspector in an appeal decision¹ on a nearby site is employed. I do not have the full details of that case before me but it does seem to have some parallels with the case before me and as such I give it moderate weight. In any case, I am required to determine the appeal on its own merits.
 9. Even though that Inspector appears to have taken into account the gap between the flank walls of the dwellings involved it is not stated as to whether that constitutes a small gap. Furthermore, that site is not totally comparable to the appeal site as there is an access drive between Peartree Cottage and Meadowcroft.
 10. It is a matter of judgement as to whether or not the proposal would comprise 'limited infill'. As only one dwelling is mooted the proposed development would undoubtedly be of a limited amount. Despite the nature of the development along Netherwood Lane being spacious, with properties set within relatively large and mature gardens, the overall street scene is one of a continuous form of built development along the lane. The appeal site forms part of a gap in this frontage that the proposal would infill. The landscaped boundaries of the site restrict the width of the plot and even though it forms part of a larger gap, in this case, the appeal site visually forms a small gap in the built-up frontage.
 11. Moreover, even if the whole gap between the 2 properties is considered it would only accommodate one dwelling in a manner that would preserve the character of the area and on this basis I am satisfied that the appeal proposal would represent limited infilling. Although the proposed dwelling may well have a smaller footprint than its neighbours, the appeal proposal would preserve the character of the area by developing a dwelling within a spacious plot which would overall retain the area's sylvan appearance.
 12. In conclusion as I have found that the proposed development would constitute limited infill within a village it would therefore not be inappropriate development within the Green Belt. It follows that it would accord with the

¹ APP/Q4625/W/16/3143166

Framework and LP Policy P17. It is therefore unnecessary to consider whether there are considerations in favour of the appeal which would amount to very special circumstances necessary to justify the development.

Other Matters

13. I understand local residents are concerned that the proposal would set a precedent for further development on Netherwood Lane within the Green Belt. Each case must however be considered on its merits, and in this instance I have found that the proposal would not be inappropriate development.
14. Local residents also object to the proposal on a wider basis, including in respect of loss of privacy, highway safety and impact on wildlife. These did not form part of the Council's reasons for refusal and I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal.
15. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

Conditions

16. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.
17. In order to provide certainty as to what has been permitted in relation to the access I have imposed a condition specifying the relevant drawing.
18. A condition relating to foul and surface water disposal is required to ensure that the site is satisfactorily drained. The suitable provision of the parking and turning area, and its retention is needed in the interests of highway safety.
19. In the interests of character and appearance, it is necessary to impose conditions relating to landscaping, hedge and tree protection and boundary treatments.
20. The PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In the case of the pre-commencement conditions, I consider that resolution of the matters specified to be so fundamental to the development that it would otherwise be necessary to refuse the application.

Conclusion

21. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR

- Attached Schedule -

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted insofar as it relates to the access shall be carried out in accordance with the following approved plan: 402/01B.
- 5) The development hereby permitted shall not commence until details of the means of disposal of surface water and foul sewage have been submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 6) The parking/ turning area for the proposed dwelling shown on the approved plan shall be surfaced and drained on site before the development is first used and thereafter retained for parking/turning purposes at all times.
- 7) The details to be submitted as required by condition 1 shall include a schedule of all those trees, hedgerows, shrubs or existing features of the land to be retained and removed. No tree, hedge or shrub on the site indicated in the approved schedule for retention shall be topped, felled, lopped or root pruned except with the prior written consent of the local planning authority.
- 8) The details to be submitted as required by condition 1 shall include details of both hard and soft landscape works and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate, and an implementation programme.
- 9) If within a period of 5 years from the date of planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place within the next planting season (October-March), unless the local planning authority gives its written consent to any variation.
- 10) Prior to the commencement of work on site, all existing trees/hedges and large shrubs except those agreed for removal, shall be protected by barriers, details of which shall be submitted to and approved in writing by the local planning authority. Thereafter the tree barriers shall be retained during the construction period as approved. The protected areas shall be kept free of all materials, equipment and building activity during the site development, and ground levels within the protected areas shall not be raised or lowered.