



Appeal Decision

Site visit made on 22 July 2019

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2019

Appeal Ref: APP/Q4625/C/18/3215188

All that land known as land and property at 374 Tilehouse Lane, Tidbury Green, Solihull B90 1PX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Alan Wadley against an enforcement notice issued by Solihull Metropolitan Borough Council.
 - The enforcement notice was issued on 27 September 2018.
 - The breach of planning control as alleged in the notice is the unauthorised development by means of the construction of a detached single storey garage in the approximate position as shown hatched blue on the Plan.
 - The requirements of the notice are:
 - (1) Dismantle, demolish, and take down the garage structure in its entirety
 - (2) Remove from the Land all materials created by the taking of step (1) above.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. In its reasons for issuing the Enforcement Notice the Council refer to Policy P14 of the Solihull Local Plan (LP). This Policy relates to amenity considerations. In the Officer's report, it states that the development does not result in any undue impact upon the amenities currently enjoyed by the occupiers of any nearby dwelling houses and thus the development is compliant with LP Policy P14. I have no evidence before me to take a different view.
3. The Council's statement refers to LP Policy P17 which relates to the Green Belt. The Council confirm that the Enforcement Notice should have referred to this policy, but that it was omitted in error. I have therefore taken Policy P17 into consideration in my determination of this appeal. I am satisfied that no prejudice is caused because the appellant has addressed issues relating to the Green Belt in his appeal submissions.

The appeal on ground (a)

Main Issues

4. The appeal site lies within the Green Belt; accordingly, the main issues are:

- (i) Whether or not the development represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- (ii) the effect of the development on the openness of the Green Belt and the purposes of including land within it;
- (iii) the effect of the development on the character and appearance of the area; and
- (iv) if the development is inappropriate, 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 property has a planning history which includes an appeal dated 31 May 2016 (ref: APP/Q4625/D/15/3140888) against a refusal to grant planning permission. In effect for a similar development subject of the enforcement notice and being considered under this appeal.
- 6. I have considered the previous Inspector's findings and decision based primarily upon the grounds of the development being harmful to the Green Belt and the character and appearance of the area. I give the previous Inspector's findings considerable weight.

Whether inappropriate development in the Green Belt

- 7. LP Policy P17 states that the development of new buildings in the Green Belt is considered to be inappropriate, except in very special circumstances. Due to its distance from the main dwelling, the appeal building cannot be considered as an extension. Consequently, the appeal development does not fall within any of the exceptions set out in the Framework and thus represents inappropriate development in the Green Belt. This is consistent with the findings of the previous Inspector. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

- 8. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 9. The appeal development has introduced a substantial building within the front garden where none existed previously. I accept that the hedge screens the building to a large extent. Nonetheless, an effect on openness is not limited to visual impact but may be represented in the physical form of a structure. Irrespective of any visual impact, the physical presence of the building results in a loss of openness. Whilst this loss is minimal and localised, harm is caused.
- 10. The appeal development has reduced the openness of the Green Belt which adds to the harm to the Green Belt found by reason of inappropriateness.

11. Thus, the appeal development conflicts with LP Policy P17 which amongst other things, seeks to protect the designated Green Belt from inappropriate development.

Character and Appearance

12. Residential properties along this section of Tilehouse Lane are set back from the highway beyond front gardens. The front gardens and the grass verge along this side of the road create an attractive relatively spacious street scene.
13. The Council's Supplementary Planning Document *House Extension Guidelines* (2010) (SPD) advises that detached buildings between the road and the house are not normally acceptable unless the building can be accommodated in an unobtrusive position that will not form a prominent feature. LP Policy P15 seeks to ensure that development proposals conserve and enhance local character, distinctiveness and streetscape quality.
14. Dwellings along this stretch of Tilehouse Lane have no built development in their front gardens. Typically, garages are located to the side of the buildings similar to the integral garage at the appeal property. Whilst the roof height has been reduced and further alterations to the building's design have been suggested by the appellant, the siting of the appeal building in the front garden appears uncharacteristic and alien and is contrary to the general pattern of development in this location.
15. The appeal property has a front boundary wall with a hedge behind. The appeal development is sited close to the hedge some distance from the main dwelling. I acknowledge that to a large extent the hedging obscures the building from the highway and that the proposed planting along the neighbour's boundary may screen the building further. However, whilst a condition could be imposed to retain the hedge and implement further planting, it would be unreasonable to require it to be retained at a certain height. Thus, the height of the hedge cannot be relied upon to mitigate the impact of the building.
16. The appellant has highlighted a number of garages (including photographs) at various locations in the surrounding area, but these relate to other locations which are not directly comparable with the appeal development. In any event, I have determined the appeal before me on its own merits having regard to its specific context in the street scene.
17. I consider that due to its scale and siting within the front garden the appeal development is an incongruous feature which causes harm to the character and appearance of the area.
18. I conclude that the proposal conflicts with LP Policy P15 and the guidance laid out in the SPD and the Framework, which amongst other criteria, seek to ensure that development proposals conserve and enhance local character, distinctiveness and streetscape quality.

Other Considerations

19. Paragraph 144 of the Framework says inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework says that very special circumstances will not exist unless the potential harm to the Green Belt by

reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

20. The appellant has suggested modifications to the building which include the installation of a grass roof, removal of the roof and installation of a pent roof or flat roof, the use of different fascia materials, planting a hedge along the shared boundary with No 372 and the alteration of the entrance gates to impede views through them from the highway. These suggested alterations would not offset the harm caused by the scale and siting of the appeal development. Moreover, these alterations would not reduce the harm to openness. Any benefits these alterations may afford do not outweigh the harm caused by inappropriate development in the Green Belt and I afford this matter limited weight. The possible removal of the hedge at a future date is a matter for the appellant and does not influence my decision.
21. The appellant has referred to areas of Green Belt land which have been released for development over the last eighteen months. However, I am not aware of the detailed circumstances of these developments. In any event, I have determined the appeal before me on its own merits, with regard to the development plan, the Framework and other material considerations. I therefore give this matter little weight in my consideration of this appeal.
22. I note the appellant's comments made regarding the perceived attitude of the Council and communication with the Council, but these matters are not determinative to the appeal. I also note comments made in relation to the communication between Damson Homes and local residents regarding the lifting of the Green Belt designation to enable the future development potential of properties in Tilehouse Lane. I have been provided with no evidence to indicate that development of this nature is likely to go ahead, and I therefore give this matter little weight.

Conclusion

23. The appeal building is inappropriate development in the Green Belt which is harmful by definition. In addition, there is harm to openness. Also, the development is harmful to the character and appearance of the area. These matters carry substantial weight.
24. Taking into account all other considerations, I find nothing, individually or cumulatively sufficient to clearly outweigh the totality of the harm by reason of inappropriateness, and any other harm, which is the test they have to meet. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
25. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

The appeal on ground (f)

26. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173 (4)(b)). As the enforcement notice requires the demolition of the building, the purpose is clearly to remedy the breach of

planning control. No lesser steps than the removal of the building would achieve that purpose.

27. The appellant submits that the complete removal of the building is not necessary and that instead it could be modified by changing the colour of the fascia, lowering the roof and/or replacing it with a grass and/or flat roof as well as additional planting. I have considered these proposals above under the ground (a) appeal and find that they would not overcome the identified harm.
28. In order to remedy the breach of planning control, it is not excessive to require the building to be demolished. To require that does not, therefore, exceed what is necessary to remedy the breach of planning control that has occurred. The appeal on ground (f) must fail.

Elizabeth Jones

INSPECTOR