



Appeal Decision

Site visit made on 19 July 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/Q4625/W/19/3227954

Land adjoining 68 Lady Lane, Shirley Solihull B90 1RJ

- 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 Mike Sweeney against the decision of Solihull Metropolitan Borough Council.
 - The application, ref. PL/2018/01906/MIODW, dated 16 May 2018, was refused by notice dated 1 November 2018.
 - The development proposed is a proposed residential development site at land adjoining 68 Lady Lane, Shirley, Solihull.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline, with appearance, layout, scale, access and landscaping as reserved matters. The Council made their decision based upon a Supporting Statement¹, a Location Plan and a Site Plan. These plans and statement reflect the description of the development. As the Council had regard to these in determining the application, I have dealt with the appeal on the same basis.

Main issue

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

¹ By Keith Fleetwood of Town Planning and Design Services, dated May 2018

Reasons

Whether the proposal is inappropriate

4. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. The relevant exception sought to be applied to the appeal site would be the 'limited infilling of villages.'
5. Policy P17 of the Solihull Local Plan 2013 (LP) defines 'limited infilling' as 'filling of a small gap, in an otherwise built up frontage of no more than two dwellings.' The accompanying text to this policy states that acceptable villages for limited infilling are within the settlement boundaries of Chadwick End, Cheswick Green and Tidbury Green. The appeal site is not within a defined settlement boundary, and is seen alongside the other sporadic development within the open countryside along the rural lane at this location, rather than being seen within a built-up frontage along spine roads typical of sites within the settlement boundary.
6. In my opinion, there is a significant conflict between the proposal and the exceptions specified by Policy P17 of the LP and the Framework. The appeal proposal would not constitute limited infilling or consist of the infilling of a built-up frontage of a settlement as defined by Policy P17 of the LP. Accordingly, I find that the proposal would be 'inappropriate development' in the Green Belt.
7. Paragraph 143 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore attach substantial weight to the harm arising due to the inappropriate nature of the appeal development.

Openness

8. Paragraph 143 of the Framework says 'the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.' Whilst there is no definition of 'openness' in the Framework, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development.
9. The appeal site is undeveloped and has an open aspect which is seen within the context of the countryside beyond. Whilst I note comments that there is development on both sides of the appeal property, this takes the form of a more sporadic development, where development surrounding is experienced within the semi-rural context within the countryside beyond which is reinforced by the narrow rural carriageway along the front boundary and the open countryside surrounding.
10. The main effect caused to the openness of the appeal site would be via the introduction of development which in principle would erode this visual gap and degrade the appeal site's positive function in reinforcing the transitional and open appearance of this semi-rural locality. Whilst some of the openness could be retained via a design which could come at reserved matters, the openness of the site and its contribution to the aims of the greenbelt would be further eroded. As such, the proposed development of the appeal site in principle would be a material addition to the amount of built development on the site, which has an effect upon the openness of the Green Belt in this location. Nevertheless, this

additional effect of the development on the openness of the site, and on the Green Belt, adds to the harm already caused by reason of its inappropriateness.

Other Considerations

11. Very special circumstances to justify inappropriate development 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.
12. The Council has not raised any concerns regarding the ability to access the site by vehicle, living conditions of the occupants of neighbouring development or future occupants as a result of the proposal. However, this indicates a lack of harm of the proposal in this regard rather than a benefit of the development.
13. I note that the Framework encourages the development of small sites and making effective use of urban land. The proposal would also deliver further residential development which will assist in meeting housing need, as well as result in short term employment opportunities in the construction of residential development, and the contribution to local expenditure from future occupiers. These factors weigh in favour of the development.
14. Other factors which the appellant seeks to be considered as very special circumstances include the conformance to the character of the area; proximity to nearby settlements; other residential development with greater impact has been approved within the greenbelt; that the appeal site makes no material or visual contribution to the immediate green belt; that there are permitted development rights such as extensions which could be a fall back position; the proposal would not amount to urban sprawl; and that the development of the site would prevent fly-tipping and improve the appearance of the site.
15. The appeal site is land which lies within open countryside which is defined by the Council as being land outside of the settlement boundary, the nearest settlement boundary, being that of Cheswick Green, some 400 metres away. The site is accessed from Lady Lane, a narrow carriageway with no street lighting or footpaths into the settlement with future occupants most likely completely reliant on private vehicle to access services of nearby settlements. Whilst the appellant may be able to construct extensions, this would not be the same as an effect upon the Green Belt with another dwelling, with specific considerations to residential extensions in green belt areas needing to be considered. Whilst the condition of the site might present a negative appearance to the surrounding area as a result of its condition, the tidying up of the site can be undertaken without consent for a dwelling. Additionally, the approval of other sites in the Green Belt which may have a larger impact do not justify development on the appeal site which needs to be taken into account on its own merits.
16. Despite this, these other considerations do not, either separately or cumulatively, clearly outweigh the harm by reason of inappropriateness and the additional harm to the openness of the Green Belt. As a result, the very special circumstances that are required to permit the development do not exist. The appeal development would therefore conflict with the provisions of the Development Plan and with the Framework, as referred to above.

Other Matters

17. I note comments with regards to the Council's 5-year housing land supply position. However, the tilted balance towards granting permission set out at Paragraph 11 d) of the Framework does not apply in this case. This is because policies in the Framework have specific exclusions from the tilted balance that protect areas of particular importance (in this case the Green Belt).
18. I note reference to another appeal decision² which was allowed within the Green Belt which consisted of debate with regards to the infilling of a gap within the designated village of Chadwick End, which is one of three settlements seen by the Council as being appropriate for infill development. This appeal is not analogous to the appeal site as in this case the site was within a designated village as per Policy P17 of the LP. As such I give this appeal little weight.
19. I also note comments with regards to a court decision³ which the appellant seeks that a combination of circumstances could, when seen objectively, amount to 'very special circumstances.' Whilst this may be the case, having considered the circumstances and other considerations put forward, I am not convinced that individually or cumulatively, the circumstances result in very special circumstances that would clearly outweigh the harm caused.
20. There is discussion with regards to the site not being in an isolated location with considerations also given to opinions expressed in case law⁴. I also agree that the site would not be within an 'isolated location,' and whilst this may be the case, the site in my opinion would be poorly accessed and likely to be wholly dependant upon vehicular use.
21. It is mooted by the appellant that the site could also be used for affordable housing on the site, as well as agricultural workers housing, however it is not detailed exactly what this entails. I have therefore concentrated on the provision of residential development in principle as per the development description.

Conclusion

22. In conclusion, the appeal proposal would result in inappropriate development that in the terms set out in Policy P17 of the LP and the Framework and, in addition, it would lead to a moderate loss of openness to the Green Belt and additionally would not be within a suitable location which would be wholly dependant upon vehicular use. These issues are not outweighed by the considerations advanced by the appellant. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, for the reasons given above I conclude that the appeal is dismissed.

J Somers

INSPECTOR

² APP/Q4625/W/17/3168927

³ Basildon DC v FSS (2005) EWHC 942

⁴ Braintree District Council v Secretary of State for Communities and Local Government and others [(2017) EWHC 2743]