



Appeal Decision

Site visit made on 12 August 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/Q4625/W/19/3228723

Former Glider Yard, Land opposite 26 Houndsfield Lane, Tidbury Green, Shirley, Solihull B90 1PR

- 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 and Mrs Richard Fox against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2018/03267/PPFL, dated 11 November 2018, was refused by notice dated 18 January 2019.
 - The development proposed is erection of 3 x five bedroomed houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect on the openness of the Green Belt; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

Reasons

Inappropriate development

3. The site is within the West Midlands Green Belt. Policy P17 of the Solihull Local Plan 2013 (LP) states that in addition to the provisions of national Green Belt policy, the Council will consider development not inappropriate in the Green Belt in certain other limited circumstances. The National Planning Policy Framework (The Framework) explains that the Government attaches great importance to Green Belts. Furthermore, it explains that substantial weight is to be afforded to any harm. Paragraph 145 establishes that new buildings would be inappropriate unless they fall within one of the listed exceptions. Paragraph 145(g) identifies that new buildings would be inappropriate development except if it relates to "limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in

continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development”.

4. I will therefore consider the matter of openness in the context of the above.

Effect on openness

5. Paragraph 133 identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open. The openness of the Green Belt has both spatial and visual dimensions. The site is within the small settlement of Tidbury Green. It is opposite a ribbon development of dwellings and a golf course behind it. There are fields/small holdings either side. The site and surrounding areas are relatively flat, with temporary wooden boarding enclosing the frontage. The proposed development would be visible from views around the edge of the site from local highways, even though boundary trees and hedging reduce some of its open character. Trees subject to a Preservation Order are within the frontage of the site, although the site is mostly open to views from the highway.
6. The site is subject to a Certificate of Lawful Development¹ from 2016, at the time finding three buildings to be lawfully established. Although on my visit I noticed that these have since been demolished.
7. An appeal for a dwelling, in a similar location as the (then) existing central building, was allowed in 2017². The Inspector found that the whole of the site could be considered as previously developed land. He also concluded that the proposal would have no greater effect on openness than the existing buildings. This was on the basis that the proposal would be on a broadly similar footprint, remain within the previously developed site and not be isolated in the open countryside. These characteristics limited the likelihood of differences in openness arising from the sites altered appearance being apparent in any views. He also considered that due to its modest scale and location, the proposal would not result in further encroachment into the countryside.
8. The Council has since granted planning permission for two dwellings³ in 2018. I do not have sight of the Council’s reasoning of that approval. I therefore cannot take into account its deliberations in regard to the effect of that proposal on openness. The approved scheme included two relatively large dormer bungalows, placed either side of the middle of the plot with a substantial gap in-between.
9. In broad terms, the proposal seeks to infill the gap and replace the approved dormer bungalows with three two-storey dwellings. The net increase of development on site would consequently be significant and the gap would be removed. The proposal would not thus take up a similar area of the site, in comparison to the two dwellings previously approved, in either floorspace or footprint terms. Furthermore, the proposal seems to far exceed the scale of existing (now demolished) buildings on site. The site is not isolated and relatively well screened. Nevertheless, the proposed dwellings would substantially reduce the open nature of the site and substantially exceed the scale of the most recently approved development. Taking into account the

¹ Certificate for Lawful Existing Use or Development Reference: PL/2016/0502/CLEUD

² Planning Appeal Reference: APP/Q4625/W/17/3177152

³ Planning Approval Reference: PL/2018/01292/PPFL

previously approved development the proposal would have a moderately harmful effect on the openness of the Green Belt.

10. Consequently, having found moderate harm to the openness, the proposal would also be inappropriate development in the Green Belt.

Other considerations

11. The appellants state that the site has now been identified within the Council's Brownfield Land Register as Previously Developed Land, considering the site to be suitable for 2-4 dwellings. The Register enables a local authority to identify land that it considers would be appropriate for residential development, this therefore only confers the principle of residential development. This has already been established on this site by the previous approvals.
12. The appellants refer to a number of local examples of approved housing development on previously developed land. However, the context and reasoning of those decisions is not in evidence to enable a consideration of comparable factors.
13. The Inspector identified in 2017 that the Council did not have a 5-year housing land supply. The appellant's planning statement indicates that the Council still cannot demonstrate an adequate supply of housing. The appellants inform that the Council's housing policy P5 has been substantially modified and large sections in regard to housing numbers have been struck out, following a High Court decision. However, no further information is in evidence to explain the ruling or its implications. In any event, paragraph 11(d) of the Framework states that where there are no relevant development plan policies permission should be granted unless protected areas, such as the Green Belt, provide a clear reason to refuse the development proposed⁴. Furthermore, one additional dwelling to the approved scheme would make only a limited contribution towards the supply of housing.
14. The site is identified as being close to Whitlock's End Railway Station and bus services on Tilehouse Lane. The site is therefore relatively well connected to sustainable travel measures in consideration of its rural location. This is of some benefit towards the proposal.

Whether there would be Very Special Circumstances

15. Paragraphs 143 and 144 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. 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.
16. I have concluded that the appeal scheme would result in moderate harm to the openness of the Green Belt. I have therefore also concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt.

⁴ National Planning Policy Framework: Paragraph 11, footnote 6

17. On the other hand, the other considerations I have identified are of limited to moderate weight in favour of the proposal. As such the harm to the Green Belt is not clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.
18. Consequently, the proposal would be inappropriate development and as such harmful to the Green Belt. The proposal would therefore be contrary to policy P17 of the Solihull Local Plan 2013, which states that development in the Green Belt must comply with national planning policy.

Conclusion

19. The proposed development would not accord with the development plan or national policy and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Ben Plenty

INSPECTOR