The Planning Inspectorate

Appeal Decision

Site visit made on 16 September 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Appeal Ref: APP/Q4625/W/19/3232478
Brailes Farm, Fillongley Road, Meriden, Solihull CV7 7JX

- 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 Lawrie Arnold against the decision of Solihull Metropolitan Borough Council.
- The application Ref PL/2019/00353/PPFL, dated 6 February 2019, was refused by notice dated 16 April 2019.
- The development proposed is for the construction of a private way and alteration of existing access.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   - whether the proposal would be inappropriate development in the Green Belt having regard to the policies of the development plan and the National Planning Policy Framework (the Framework), 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 appeal site is within the West Midlands Green Belt. The Development Plan for the district consists of the Solihull Local Plan (LP) 2013. Policy P17 of the LP, states that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances. It also states that the reasonable expansion of established businesses will be allowed in the Green Belt, where the proposal would make a significant contribution to the local economy or employment, providing that the appropriate mitigation can be secured.

4. The Framework explains that the Government attaches great importance to the Green Belt. Paragraph 133 identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open. Inappropriate development is by definition harmful to the openness of the Green Belt and

should only be approved if very special circumstances exist. Furthermore, substantial weight is to be afforded to any harm to the Green Belt.

5. Paragraph 145, of the Framework, establishes that new buildings would be inappropriate unless they fall within one of the listed exceptions. Furthermore, paragraph 146 relates to certain other forms of development that are not inappropriate, provided they preserve the openness of the Green Belt, and do not conflict with the purposes of including land within it. I agree with parties that the proposed access track would be an engineering operation as referred to by paragraph 146(b).

6. Therefore, to understand whether or not the proposal would be inappropriate development requires assessment of its impact on openness and whether it would result in encroachment into the countryside.

7. In regard to the first matter, the courts have ruled that the openness of the Green Belt has both spatial and visual dimensions. Furthermore, the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result.

8. The proposed track would bisect a field. It would create a new link between the farm compound and Fillongley Road. The works would also include the creation of a relatively wide concrete entrance and new gate. The gate would be set back around 13m into the field and be 17.5m back from the highway. The edges of the track, between the existing hedge and new gate, would be bounded by hedgerow or fencing. The proposed access would augment an existing farm access into the field. The existing access has the appearance of a conventional and minor field access. It leads onto a slightly furrowed track which connects to the main compound. This appears to be lightly used and thus retains the open character of the field. Conversely, the proposed hardstanding would result in a significant and material change to the appearance of the site.

9. The Brailes Farm compound consists of several large farm buildings and is close to small groups of isolated dwellings. However, the surrounding area is open countryside and has a clear rural character. The adjacent A45 is in a cutting and thus has a limited effect on this open character. The proposed access would increase and widen views into the site from the highway. Therefore, whilst the track would partly be obscured by the existing buildings at Brailes Farm, the proposed hardstanding would urbanise the site. Subsequently, the openness would not be preserved by the proposal. As such, it would result in moderate harm to the openness of the Green Belt.

10. With regard to the second matter of encroachment, the site provides wide views of the open countryside. The site therefore makes a positive contribution to the character and appearance of the Green Belt. Although the field is enclosed by hedging the proposal would introduce built form into a rural location. The urbanising effect of the proposed access track would have a harmful effect on the open and relatively exposed field. The proposal would therefore result in encroachment into the Green Belt, contrary to one of the purposes of Green Belt policy.

11. There is no substantive evidence to indicate that the proposal would result in a significant boost to the local economy or employment. Consequently, the proposal would be contrary to policy P17 of the LP which seeks to not permit inappropriate development in the Green Belt. Moreover, the proposal would

consequently not accord with the exception of paragraph 146(b) of the Framework as the engineering works would fail to preserve the openness of the Green Belt.

Other Considerations

12. The access track would be a dedicated route for large vehicles. The appellant has indicated that he would cease to use the existing access points onto Walsh Lane and Fillongley Road for these vehicles.

13. The appellant considers that the primary access onto Fillongley Road, is unsuitable and impractical. The appellant's Access Appraisal[1] (AA) indicates that the primary access was compromised by the realignment of the highway in the 1970's. It also explains that the southbound visibility splay is restricted at around 70m. Furthermore, this access requires a tight turning area on site and creates highway safety risks when entering the site. The farm receives up to three articulated lorries daily. The manoeuvring difficultly prevents large lorries from exiting from the primary access and they use Walsh Lane instead.

14. The access from Walsh Lane is opposite a field access. It is set back from the highway by around 4m and the adjacent verge shows signs of vehicle overrun. Furthermore, the opposite field access, and adjacent verges show areas of vehicle overrun. However, the Council's photographs show large lorries able to enter the site from Walsh Lane in one movement with only limited overrun. It has therefore not been adequately explained why the existing access points could not be improved.

15. Appendix iii of the AA shows vehicle tracking around the existing access points. However, this does not explore alternatives, beyond stating that they are beyond resolution and this is therefore insufficiently compelling. Furthermore, the report refers to an accident, but the details are not in evidence. There is therefore limited evidence to illustrate that the existing access points are fundamentally unsafe, even if currently slightly awkward. On the other hand, I acknowledge that if used exclusively, the proposed access would be likely to result improved access arrangements. This is of some merit in favour of the proposal.

16. Furthermore, the appellant explains that the use of the Walsh Lane access causes complaints from residents. However, the limited representation made in favour of the proposal mostly refer to the noise created by the business in its entirety. The resident also requests the exclusive use of the proposed access for all farm related traffic, which is not proposed. This qualified support therefore only attributes limited weight in support of the proposal.

17. The appellant explains that the adjacent bridge over the A45 is due to be closed for repairs. He states that the proposed access is required, before the bridge is closed, to enable the business to continue to operate effectively. The closure would prevent vehicles from approaching the site from the south, but equally would substantially reduce traffic using this section of highway. Furthermore, both existing access points and the proposed are on the north side of the bridge. These would all be equally affected by the bridge closure. As such, the effect of the bridge closure is of limited weight to justify the need for the proposal.

[1] Access Appraisal at Brailes Farm, Impact Design Consultants November 2018

18. Policies of the LP provide some support for the proposal in terms of the expansion of an established business, supporting its future potential growth and generating improved transport efficiency. However, these merits are only of moderate benefit in favour of the proposal.

Whether there would be Very Special Circumstances

19. 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.

20. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the proposal would result in moderate harm to the openness of the Green Belt and would result in encroachment. On the other hand, the other considerations I have identified including the access benefits to the farm holding, slightly improved highway safety and benefits to the business are of only 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.

Other matters

21. The site is adjacent to the Grade II* listed building of Walsh Hall. Its significance derives from its fine architectural form and its age. I have a statutory duty[2] to have special regard to the desirability to preserve the setting of a listed building. The proposal would be located some distance from the building with substantial tree screening blocking the majority of intervening views. The proposal would therefore have a negligible effect on the setting of the listed building and therefore preserve its significance.

Conclusion

22. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR

[2] section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990